



# 2012 Annual Report

## Real Estate Commission

Real Estate Branch  
Professional and Vocational Licensing Division  
Department of Commerce and Consumer Affairs  
State of Hawaii

## **The 2012 Hawaii Real Estate Commission**

**Carol Mae A. Ball**  
Chair  
Maui, Real Estate Broker

**Stanley M. Kuriyama**  
Vice Chair  
Oahu, Real Estate Broker

**Frances Allison Torre Gendrano**  
Chair, Laws and Rules Review Committee  
Oahu, Real Estate Broker

**Walter Harvey**  
Vice Chair, Laws and Rules Review Committee  
Oahu, Real Estate Broker

**Scott A. Sherley**  
Chair, Education Review Committee  
Hawaii, Real Estate Broker

**Michele Sunahara Loudermilk**  
Chair, Condominium Review Committee  
Oahu, Public Member

**Nikki Senter**  
Vice Chair, Condominium Review Committee  
Oahu, Public Member

**Rowena Cobb**  
Kauai, Real Estate Broker  
Vice Chair, Education Review Committee

**Aileen Wada**  
Oahu, Real Estate Broker

The Purpose of the Commission:

In summary, the purpose of the Commission:

“...the protection of the general public in its real estate transactions.”

“...promote the advancement of education and research in the field of real estate for the benefit of the public and those licensed under the provision of this chapter (467, HRS) and the improvement and more efficient administration of the real estate industry.”

“...promoting education and research in the field of condominium management, condominium registration, and real estate for the benefit of the public and those required to be registered under this chapter (514A and 514B, HRS).”



**The Honorable Neil Abercrombie, Governor, State of Hawaii, Members of the Twenty-Sixth State Legislature and Keali'i S. Lopez, Director, Department of Commerce and Consumer Affairs:**

**I respectfully present to you the annual report on the status of the Real Estate Commission (“Commission”) for fiscal year (“FY”) 2012. The Commission currently oversees approximately 18,786 licensees statewide, of which 12,702 hold active licenses. This is a 6.5% increase in total licensees from a year ago. We also oversee approximately 1,649 condominium associations and 28 condominium hotel operators. There were 210 new and conversion project filings as compared to 250 filings in FY11. This represents an increase of units within new and conversion condominiums from 5,347 in FY11 to 5,827 in FY12. The Commission also provides information, advice, referrals, education and acts as a resource for these unit owners throughout the year on all islands by way of the Commission’s Outreach Program.**

**The Real Estate Commission is a nine-member Governor-appointed body comprised of seven industry members, and two public members, who serve four-year terms. The Commission oversees the licensing of real estate salespersons and brokers, including brokerages, and the maintenance and renewal of these licenses every two years. The Commission registers prelicense education schools and instructors, and is responsible for the development of the prelicensing curriculum for salespersons and brokers. The Commission also registers continuing education providers and certifies continuing education courses. In the condominium area the Commission registers condominium projects, condominium owner associations, condominium hotel operators and condominium managing agents.**

**The Commission administers, as trustee, the real estate recovery fund and publishes and disseminates reports about the fund. There were 2 cases filed for payment from the fund during FY 12. The Commission takes disciplinary action, reviews and approves settlement agreements involving real estate licensees who have been investigated by the Regulated Industries Complaints Office (“RICO”), and have been found, via administrative hearing, to have violated the real estate licensing laws and rules.**

**The Commission has three standing committees; the Laws and Rules Review Committee, the Education Review Committee, and the Condominium Review Committee. All are working committees where Commissioners take on leadership roles to work towards accomplishing the Program of Work in those described areas for the fiscal year. Funding for these programs is critical to the Commission in order to achieve the objectives and goals and to maintain the direction of the Commission as set forth by law.**

**Frances Gendrano, Oahu Commissioner, Chair of the Laws and Rules Review Committee (“LRRC”), and Vice Chair Walter Harvey, Oahu Commissioner, have diligently worked to address national and state issues that impact Hawaii. In this year’s legislative session, Act 257 (SB 3002 SD2 HD1 CD1) amended the Real Estate Brokers and Salespersons law, in particular section 467-14, Hawaii Revised Statutes (“HRS”), by requiring consideration of good faith reliance on third party information by licensees accused of misrepresentation and failure to ascertain and disclose material facts. Rulemaking for Hawaii Administrative Rules (“HAR”), Chapter 99, continues its long journey towards adoption.**

**The Education Review Committee (“ERC”) under the leadership of Scott Sherley, Big Island Commissioner, and Vice Chair Rowena Cobb, Kauai Commissioner, worked with the Education Evaluation Task Force and its successor, the Ad Hoc Committee on Education (“ACE”), made up of industry volunteers, to produce the Commission’s 2011-2012 mandatory core course, “Real Estate Law Review and Update 2011 and Property Management”, and the 2012 Legislative Update. The mandatory continuing education course is now five hours for the 2011-2012 biennium, due to the increase in the required continuing education hours from 10 to**

**20 hours each biennium. ACE also made recommendations regarding the topics for the 2013-2014 core course and will continue to work with the ERC to finalize the new core course with the Commission's core course developer.**

**Condominium Review Committee ("CRC") Chair, Michele Loudermilk, Public Member and Oahu Commissioner, and Vice Chair Nikki Senter, Public member and Oahu Commissioner, continued the task of rulemaking for HRS, Chapter 514B, the recodified condominium law. This process is still on-going. The committee continues to review the feasibility of providing online condominium registration. Lastly, updating HAR, Chapter 53, Fees Relating to Boards and Commissions, is scheduled for public hearing in the near future. The increased fees will allow the Commission to effectively manage the Condominium Education Trust Fund.**

**Along with Commissioners Aileen Wada, Oahu broker, and Vice Chair of the Commission, Stanley Kuriyama, Oahu broker, the Commission is a hardworking and committed group, seeking to meet the challenges of tough economic times and a constantly evolving real estate industry, as well as embracing current changes that impact today's real estate licensee and consumer. The Commission is grateful to the members of the Education Evaluation Task Force, the Ad Hoc Committee on Education, the Condominium Research and Education Task Force, who contribute unselfishly their time and effort, and are committed to improve the real estate industry to maintain professional standards.**

**With the help and support of the Director of the Department of Commerce and Consumer Affairs (DCCA), Keali'i Lopez, Licensing Administrator Celia Suzuki, RICO, the Department of the Attorney General, Supervising Executive Officer, Neil Fujitani, and the Real Estate Branch staff, the Commission will continue to move forward to improve the quality and competency of its real estate licensees, and their ability to serve consumers.**

**Respectfully submitted,**



**Carol Mae A. Ball, Chair**

**Real Estate Commission  
Real Estate Branch  
Professional and Vocational Licensing Division  
Department of Commerce and Consumer Affairs  
State of Hawaii**



**Keali'i S. Lopez, Director  
Jo Ann M. Uchida Takeuchi, Deputy Director  
Celia C. Suzuki, Licensing Administrator**

**Real Estate Branch:**

**Neil K. Fujitani, Supervising Executive Officer  
Miles Ino, Executive Officer  
Lesley Matsumoto, Secretary  
Imelda Roberson, Office Assistant  
Diane Choy Fujimura, Senior Real Estate Specialist  
Amy Endo, Real Estate Specialist  
David Grupen, Real Estate Specialist  
Amy Fujioka, Office Assistant  
Cynthia Yee, Senior Condominium Specialist  
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**This material can be made available for individuals with special needs. Please call the Senior Real Estate Specialist at (808) 586-2643 to submit your request.**

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## LAWS AND RULES REVIEW COMMITTEE (LRRC) REPORT

The LRRC, for fiscal year 2012, led by Chair Frances Gendrano and Vice Chair Walter Harvey had an active year with legislation, reactive issues, licensing programs, and recovery fund administration.

**Act 18 – HB 1746 HD1** – Allows a condominium board to authorize the installation of utility meters to measure actual utility use by individual units, provided the association bears the cost of installing the utility meters. As meters were required for projects constructed after 1978, this measure applies to pre-1978 projects.

**Act 56 – HB 2591 HD2** – In 2003, the State passed Act 73 which changed the definition of public lands to include accreted land or land that is gained through water-borne sediment. A class action lawsuit was filed by oceanfront owners to be paid just compensation for accreted lands taken. The court ruled that there was a taking as to all privately owned land that accreted before May 20, 2003, but not a taking as to lands that accreted thereafter. This law modifies Act 73 so as to apply only to accreted land after May 20, 2003, and to disclaim public ownership of accreted lands privately owned before Act 73. Just compensation would be due on the taking of such earlier accretions.

**Act 83 – SB 2397 SD1 HD3** – Prohibits counties from requiring installation or retrofitting of automatic fire sprinklers in 1) a new or existing detached one- or two-family dwelling units in a structure used only for residential purposes; and 2) non-residential agricultural and aquacultural buildings and structures located outside of an urban area. This does not apply to new homes that require a variance from access road or fire fighting water supply requirements.

**Act 85 – SB 2842 SD1 HD1** – Makes Hawai‘i law consistent with federal Fair Housing law by: 1) Allowing an aggrieved person to file a civil action in the appropriate court no later than

2 years after the occurrence or termination of an alleged discriminatory housing practice; 2) Requiring the Hawai‘i Civil Rights Commission to issue a right to sue on a complaint if it determines that a similar civil action has been filed.

**Act 138 – SB 2740 SD1** – The Hula Mae Multifamily program promotes the development of new or preservation of existing affordable rental projects through the issuance of mortgage revenue bonds at below-market interest rates. This measure increases the bond issuance authority from \$500 million to \$750 million to continue to support affordable housing projects.

**Act 172 – SB 2281 SD1 HD1** – Authorizes agencies to bypass the preparation of an environmental assessment and proceed directly to the preparation of an environmental impact statement, or allow an applicant to do the same if the agency determines that an environmental impact statement is likely to be required for a proposed action.

**Act 182 – HB 1875 HD2 SD2 CD1** – Implements most of the recommendations made by the mortgage foreclosure task force which was created to address various issues affecting owner-occupant mortgagors faced with non-judicial mortgage foreclosures. Among other things this bill repeals Part I on non-judicial foreclosure, streamlines and makes the mortgage foreclosure dispute resolution program permanent, enables mortgagors to convert non-judicial foreclosure to judicial foreclosure, revises procedure for recovery of unpaid maintenance fees, and creates a new judicial process for collection of fines by associations of unit owners.

**Act 183 – HB 2375 SD2** – Requires the Office of Consumer Protection to educate consumers about fraudulent activities that may be committed against homeowners who face property foreclosures, liens, or encumbrances, as appropriate. Establishes criminal penalties



and fines up to \$10,000 for certain violations of the Mortgage Rescue Fraud Prevention Act.

**Act 209 – HB 2623 HD1 SD1 CD1** – This measure specifies that real property held in tenancy by the entirety shall have the same immunity from claims of separate creditors of spouses or reciprocal beneficiaries if conveyed into a joint or separate revocable trust, under certain circumstances.

**Act 239 – SB 2335 HD2 CD1** – Requires the counties to concurrently process subdivision and Special Management Area (SMA) use permits under certain conditions to ensure that an SMA use permit is processed before final subdivision approval occurs.

**Act 247 – HB 2257 HD1 SD1** – Permits licensure by endorsement or licensure by reciprocity in certain situations for a nonresident military spouse, establishes procedures, and allows the issuance of a temporary license if certain requirements are met.

**Act 248 – HB 2258 HD2 SD1** – Requires professional and vocational licensing boards to consider relevant military education, training, and service as part of the evaluation process toward the qualifications of a license. Requires the licensing administrator of the professional and vocational licensing division of the department of commerce and consumer affairs to communicate the intent of this Act to each licensing authority and report to the legislature. Repeals June 30, 2022.

**Act 257 – SB 3002 SD2 HD1 CD1** – This measure amends HRS 467-14, regarding the revocation, suspension and fine provisions for a real estate licensee by adding the following provision after par. (22): “For purposes of paragraphs (1) and (18), the Real Estate Commission shall consider whether the licensee relied in good faith on information provided by other persons or third parties.” The two paragraphs referred to are:

- (1) Making any misrepresentations concerning any real estate transaction; and
- (18) Failing to ascertain and disclose all material facts concerning every property for which the licensee accepts the agency, so that the licensee may fulfill the licensee’s obligation to avoid error, misrepresentation, or concealment of material facts; provided that for the purposes of this paragraph, the fact that an occupant has AIDS or AIDS Related Complex (ARC) or has been tested for HIV (human immunodeficiency virus) infection shall not be considered a material fact.

**Act 291 – HB 2686 HD1 SD1 CD1** – Exempts an owner of private property who provides emergency access to land, shelter, or subsistence to a person in good faith during a disaster from liability for injury or damage suffered by the person, unless it was caused by the gross negligence or intentional or wanton acts or omissions of the owner of the land.

**Act 312 – SB 2873 SD1 HD3 CD2** – In 2011, Act 45 was passed extending the sunset date to exclude properties that touched an existing public right-of-way or highway from having to prepare an environmental assessment (EA) if the environmental impact appeared to be minimal. This saved homeowners from having to go through the EA process even for simple projects, such as fixing one’s home driveway access or enlarging a septic tank.

This measure repeals the previous Act and clarifies that secondary actions limited to the installation, improvement, renovation, construction, or development of infrastructure within an existing public right-of-way or highway are now exempt from the EA requirement. Also, for projects that require a discretionary consent, the Office of Environmental Quality Control must determine



which agency has the responsibility to determine whether an EA is required.

**Act 326 – HB 2078 HD2 SD2 CD1** – Amends the Transient Accommodation Tax (TAT) law to 1) require any operator of a transient accommodation to designate a local contact on the same island where the accommodation is located; 2) require that the operator furnish information on the local contact to the homeowner association; 3) require the association to inform the Dept. of Taxation of all transient accommodators in the project; and 4) require operators to display their TAT registration I.D. number in all website advertisements.

### **Special Subcommittees**

For FY 2012, the Subcommittee on Applicants with Criminal and Other Legal Background Issues – The Commission’s subcommittee researched and discussed information received from other States that have implemented a criminal background review program of all real estate licensing applicants. The subcommittee desires to further discuss and work with the umbrella organization and the industry group on this issue.

### **Licensing**

For FY 2012, the total number of licensees increased to 18,815 as compared to 17,660 in FY 2011. The 1,155 increase in licensees represents an approximately 6.5% increase over the previous fiscal year. The number of real estate licensees has always been cyclical, with the all-time high of 26,090 licensees in 1990 and the lowest count in the past 20 years of 13,033 licensees in 1999.

## **FY 2012 PROGRAM OF WORK**

### **Laws and Rules Review Committee**

#### **Real Estate Recovery Fund**

The Commission is the trustee of the Real Estate Recovery Fund, which is intended to provide a measure of compensation to consumers injured by the fraud, misrepresentation, or deceit of real estate licensees. One of the primary statutory requirements for obtaining payment from the fund is notifying the Commission of the filing of a court action that may result in payment from the fund.

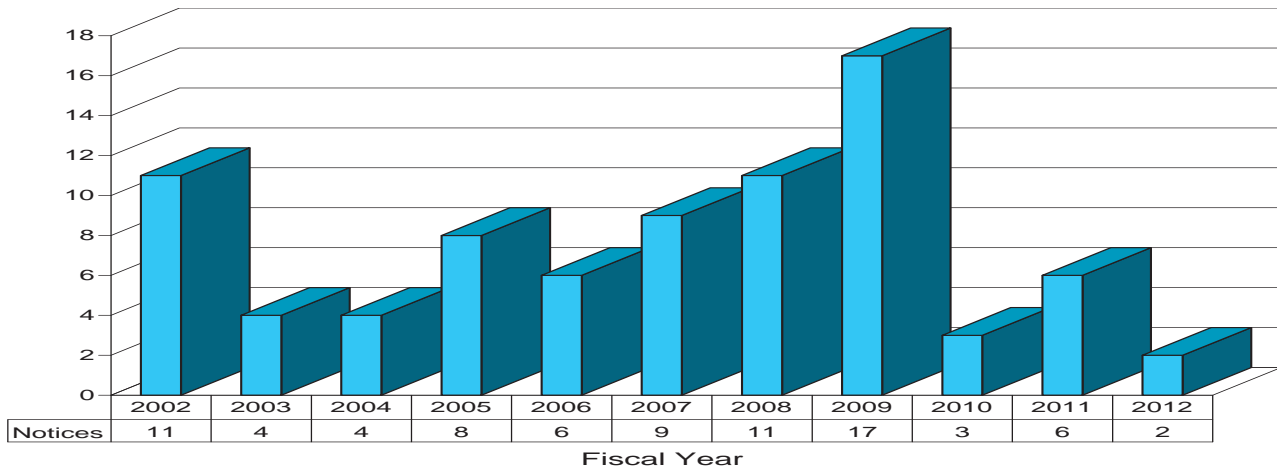
During FY 2012, the Commission received notification for two claims on the fund. This was a 67% decrease from the FY 2011 notices received (See Chart 1). There were no payments out of the recovery fund for FY 2012. Since its inception in 1967, the recovery fund has paid out over two million dollars (See Chart 2).

**Real Estate Recovery Fund** – The Commission administered the statutory requirements, contracts with consultant attorneys, notice of claims, court orders for payouts, dissemination of information, financial responsibilities of the fund, records management, and the development of reports.

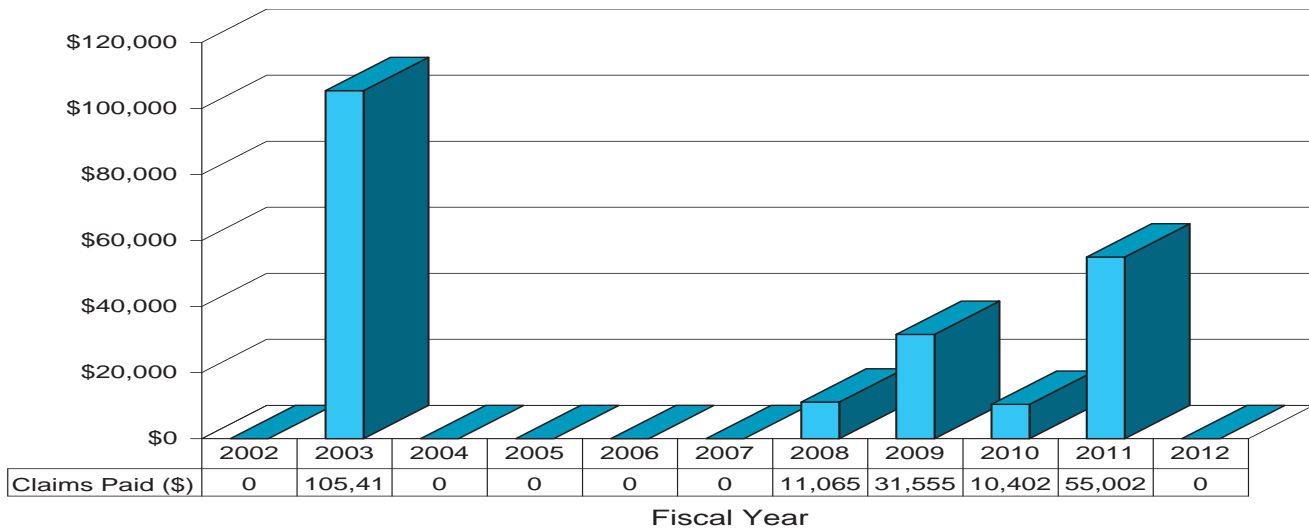
**Real Estate Licensing, Registration & Certification Administration** – The Commission administered the licensing, registration, and certification requirements, including applications review and updates, policies, procedures, appeals, subpoenas, and requests for records under the Office of Information Practices, laws, rules, and procedures.

**Condominium Hotel Operator Registration** – Staff administered the licensing, registration, and certification requirements, including applications review, policies, procedures, appeals, subpoenas, and requests for records under OIP. Staff continued the administration

**CHART 1. Recovery Fund - Notices**



**CHART 2. Recovery Fund - Claims Paid**



of the registration program with the Licensing Branch since active real estate brokers are exempt from the registration and fidelity bond requirements. This fiscal year the Commission registered 28 CHOs.

**Advice, Education, and Referral** – Staff responded and provided information to inquiries received via telephone, walk-ins, faxes, written, emails, and through the Commission’s website; printed and distributed Commission-developed information; and responded to inquiries from government officials and media.

**Rulemaking, Chapter 99** – The Commission studied, evaluated, researched, and developed

rule amendments for submission to the formal rulemaking process.

**Meetings** – The Commission, with support from staff, administered the monthly committee meetings, as well as subcommittee and ad hoc committee meetings.

**Licensing Renewals** – Staff continued implementation of the paperless renewal system and has worked closely with the Licensing Branch to ensure its continued success. In the previous biennium, the online renewal rate approached a 95% user rate.

**Legislative and Government Participation** –

The Commission participated in the legislative session; provided briefings and acted as a resource to Legislators, government officials, and staff; researched and submitted testimony on bills and resolutions, including oral testimony; and assisted Legislators and government officials in responding to the community.

**Interactive Participation with**

**Organizations** – The Commission, as well as staff, continued active participation with ARELLO (Association of Real Estate License Law Officials), local, Pacific Rim, national, and international organizations and government agencies for the exchange of information and concerns, sharing of educational and research efforts, joint projects of mutual concern, training, etc.

**Legislative Acts and Resolutions** – The Commission reviewed, reported, and developed summaries on all related Acts and resolutions; implemented requirements of directly-related Acts and resolutions.

**Neighbor Island Outreach** – The Commission held three Committee meetings at various neighbor island sites (Kona in September 2011, Maui in January 2012, and Kauai in May 2012).

**Review of Services and Organization** – Staff analyzed and initiated steps to improve the services provided; to streamline for effectiveness and efficiency; and amendments to laws, rules, forms, system, staffing, equipment, and reorganization. It conducted meetings and exchanges with Licensing Branch personnel.

**Application Processing and Forms** – Staff studied and evaluated the processing of applications, evaluated and amended forms and instructions, and assisted in mainframe computer programming issues. Staff also studied, reported on, and continued researching other electronic/computerized methods to

improve application processing.

**ARELLO National Disciplinary Action Data Bank** – Staff continued participation in the ARELLO National Disciplinary Action Data Bank to assist in the background review of applicants and consumer protection efforts in other jurisdictions.

**Case Law Review Program** – The Commission monitored, collected, and reported on case law, disciplinary actions, judgments and decisions on Hawaii court cases, federal court cases, and other States' court cases. The Commission further studied material cases to be considered for the Real Estate Bulletin and the website.

**Rulemaking, Chapter 53, Fees** – The Commission monitored, reviewed, researched, and made recommendations on rule amendments for fees through coordination with the Licensing Administrator.

**Commissioners Education Program** – Staff researched and provided reference materials to Commissioners and conducted periodic workshops for all Commissioners.

**Division and Department Programs** – The Commission coordinated and worked with PVLD, DCCA, and others on programs of mutual concern, through a joint program with ERC and CRC.

**HUD/ARELLO Fair Housing Agreement** – The Commission administered the terms of the agreement and coordinated any review by HUD officials, participated with ARELLO's Fair Housing Committee, and worked with ARELLO on the terms of the agreement.

## **FY 2013 PROGRAM OF WORK**

### **Laws and Rules Review Committee**

- Real Estate Recovery Fund
- Real Estate Licensing, Registration, & Certification Administration
- Condominium Hotel Operator Registration
- Advice, Education, and Referral
- Rule Making, Chapter 99
- Subcommittees
- Meetings
- Licensing Renewal
- Legislative and Government Participation
- Interactive Participation with Organizations
- Legislative Acts and Resolutions
- Neighbor Island Outreach
- Review of Services and Organization
- Application Processing and Forms
- ARELLO National Disciplinary Action Data Bank
- Case Law Review Program
- Rule Making, Chapter 53, Fees
- Commissioners Education Program
- Division and Department Programs
- HUD/ARELLO Fair Housing Agreement

## ADMINISTRATIVE ACTIONS

**Table 1. Administrative Actions**  
**FY 2012 Administrative Actions**

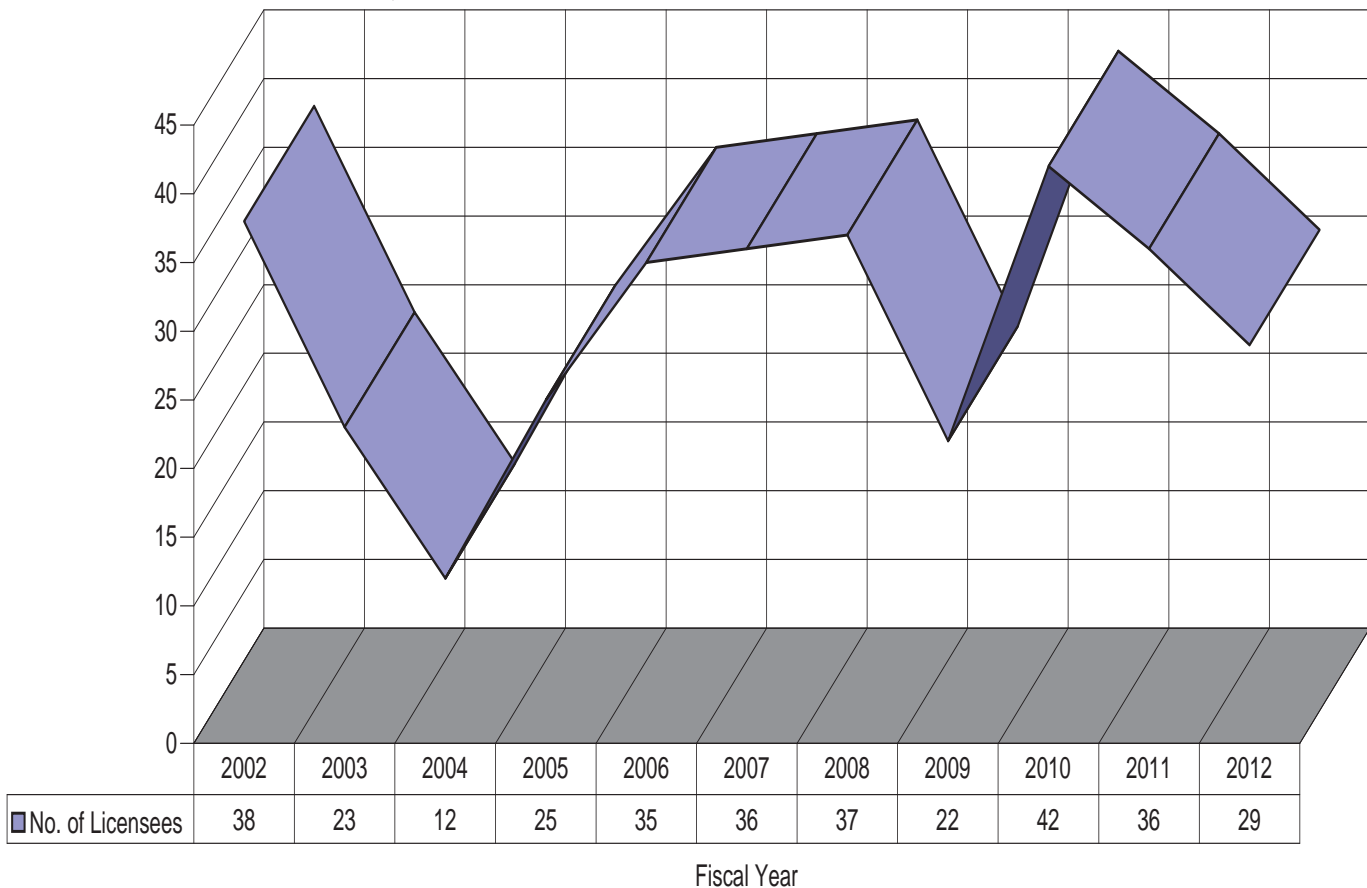
|  |           |
|--|-----------|
| No. of Licensees Disciplined - By Category |           |
| General Brokerage                          | 13        |
| Other                                      | 16        |
| <b>Total</b>                               | <b>29</b> |
|  |           |
| Licenses Revoked                           | 9         |
| Licenses Suspended                         | 2         |
| Licenses Fined                             | 28        |
| Total fines                                | \$66,000  |
| Licenses Subject to Other Sanctions        | 0         |

### Disciplinary Actions

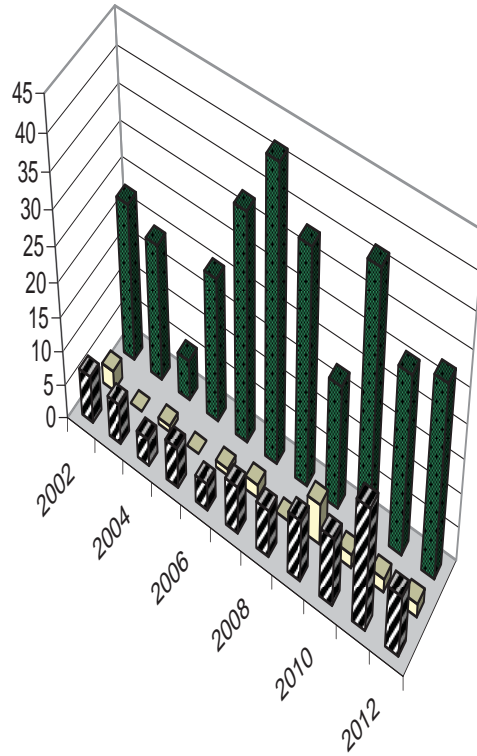
The Commission took disciplinary action against 29 licensees in FY 2012. This was a 19.4% decrease over the 36 licensees disciplined in FY 2011. Chart 3 provides historical information on the number of licensees disciplined.

Fines totaling \$66,000 were assessed against 28 of the licensees. Nine licensees had their licenses revoked. Table 1 and Chart 4 provide details on administrative actions and Chart 5 shows the distribution by the type of real estate activity involved in the case. Of note, the number of licenses revoked in FY 2012, totalling 9, decreased 50% compared to the number of licenses revoked in FY 2011 which totalled 18.

**CHART 3. Disciplinary Actions (FY 2002-2012)**

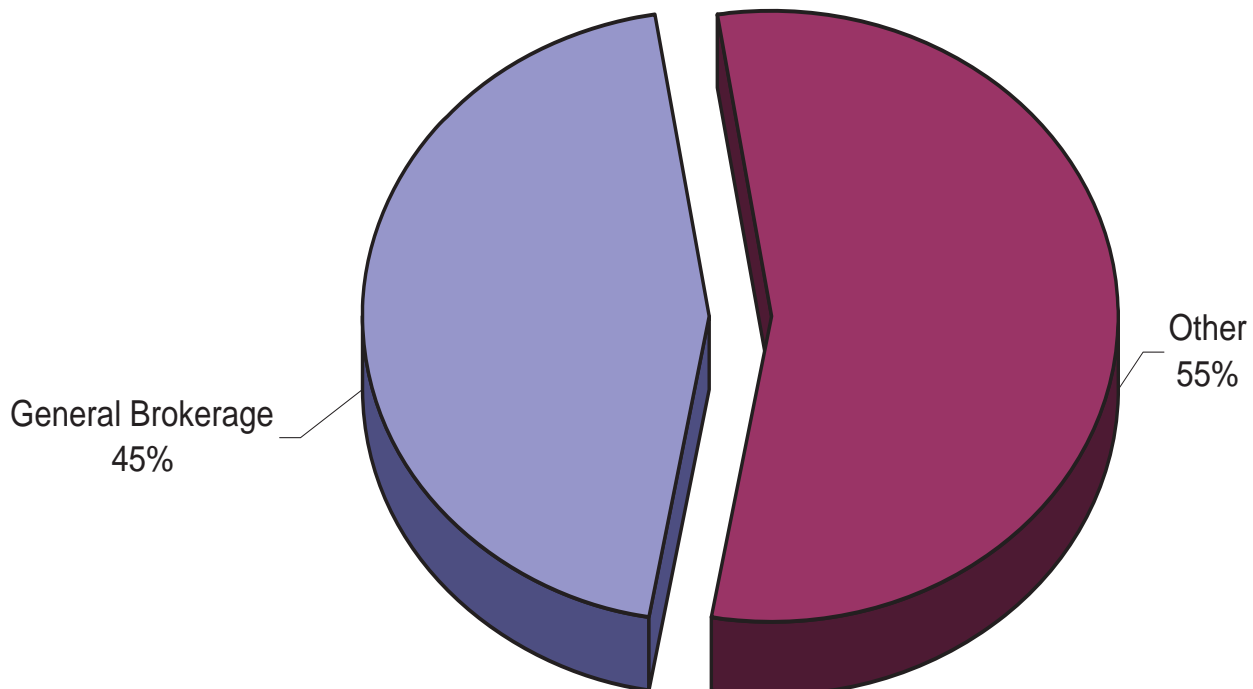


**CHART 4. Administrative Actions - Sanctions (FY 2002-2012)**



|                      | 2002 | 2003 | 2004 | 2005 | 2006 | 2007 | 2008 | 2009 | 2010 | 2011 | 2012 |
|----------------------|------|------|------|------|------|------|------|------|------|------|------|
| ▨ Licenses Revoked   | 7    | 6    | 4    | 6    | 4    | 7    | 7    | 9    | 10   | 18   | 9    |
| ▤ Licenses Suspended | 3    | 0    | 1    | 0    | 1    | 2    | 0    | 6    | 2    | 2    | 2    |
| ■ Licenses Fined     | 23   | 20   | 6    | 21   | 33   | 42   | 34   | 18   | 37   | 26   | 28   |

**CHART 5. Disciplinary Actions By Activity (FY 2012)**



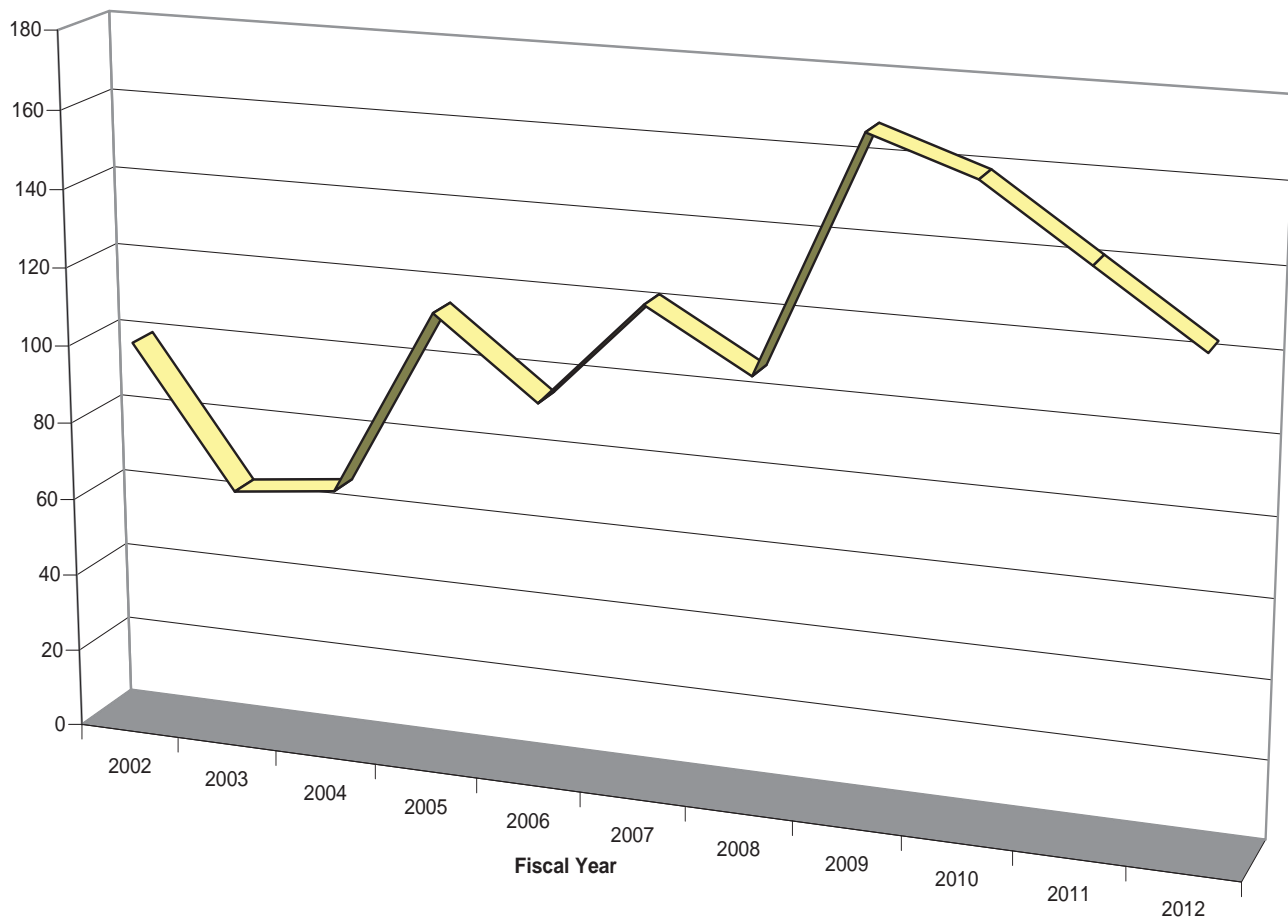
## REGULATED INDUSTRIES COMPLAINTS OFFICE (RICO)

RICO receives, investigates and prosecutes complaints against real estate licensees for violations of laws and rules. Complaints have fluctuated over the past ten years with a 12.8% decrease in FY 2012. RICO received 123 real estate complaints in FY 2012, compared to 141 in FY 2011. Refer to Chart 6.

One hundred and two of the complaints are pending, while 21 have been closed. Of the closed complaints, one case was withdrawn, there were legal actions in two cases, warning letters were issued in four cases, insufficient evidence in eleven cases, one case was resolved prior to RICO action, and two cases identified for “Records Only”.

Charts 7 and 8 show the number of cases in which specific provision of the law or rule were violated or alleged to be violated. The allegations are based on RICO complaints. The violations found or admitted show the number of disciplinary action cases in which the licensee(s) admitted or the hearings officer found a violation of a specific rule or law. In disciplinary actions that are concluded by settlement agreement, there often is no admission of violations.

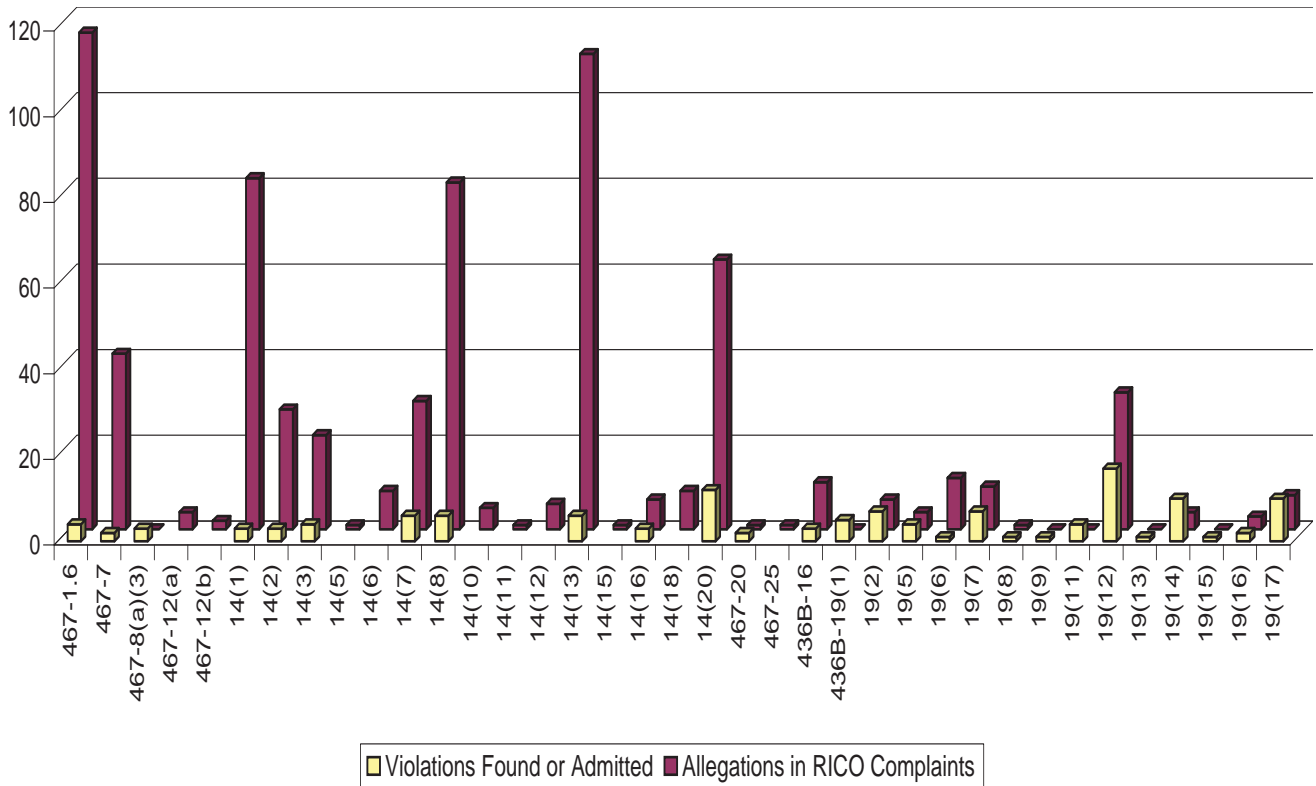
**CHART 6. RICO Complaints (Real Estate FY 2002-2012)**



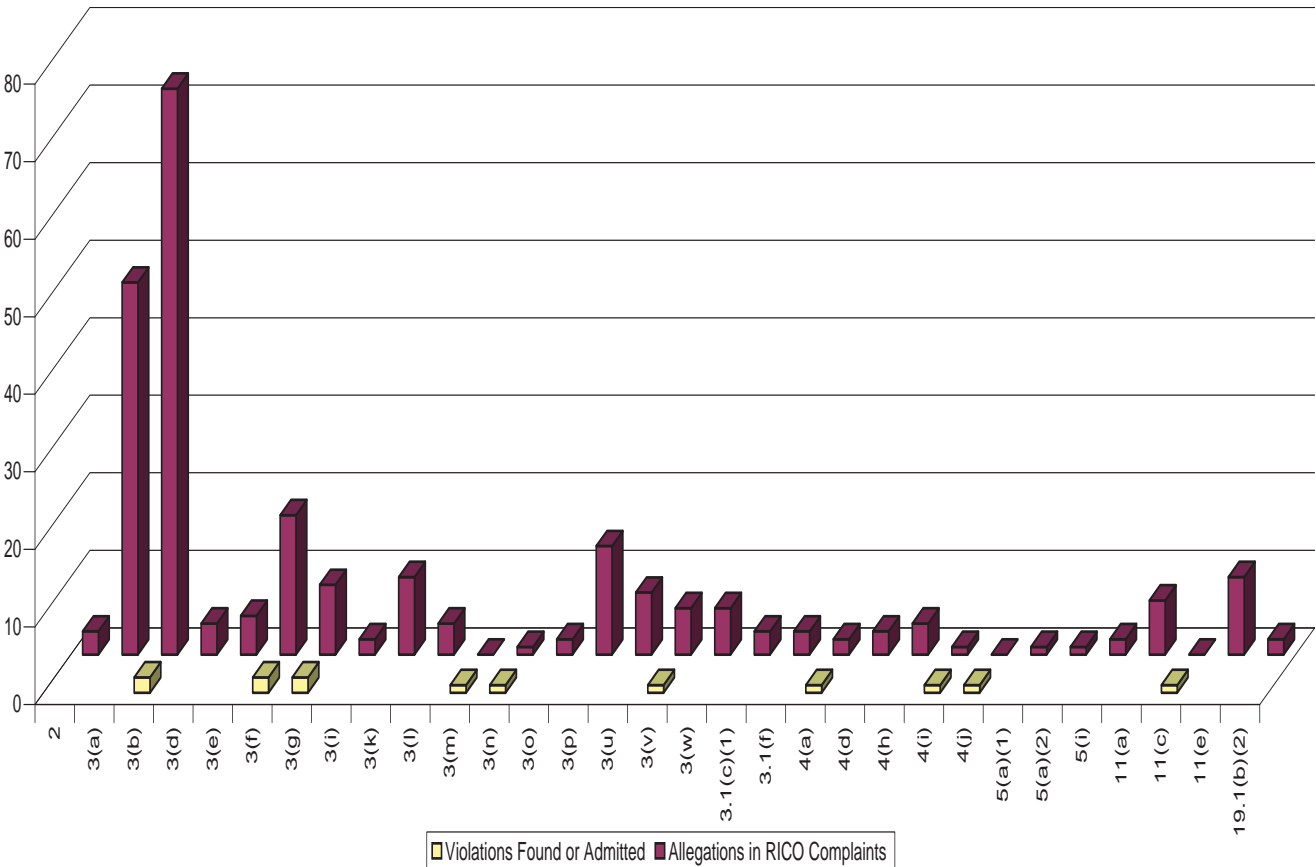
|            | 2002 | 2003 | 2004 | 2005 | 2006 | 2007 | 2008 | 2009 | 2010 | 2011 | 2012 |
|------------|------|------|------|------|------|------|------|------|------|------|------|
| Complaints | 100  | 64   | 67   | 115  | 95   | 122  | 107  | 168  | 159  | 141  | 123  |



**Chart 7. Statutory Violations (HRS Ch. 467 and 436B)**



**Chart 8. Rules Violations (Chapter 99, HAR)**



## Statutory Violations (HRS Ch. 467)

- §467-1.6 Principal brokers management, supervision and responsibilities.
- §467-7 Licenses required to act as a real estate broker or salesperson.
- §467-8(a)(3) No license, registration, or certificate under this chapter shall be issued to any person who does not possess a reputation for or record of competency, honesty, truthfulness, financial integrity, and fair dealing.
- §467-12(a) A licensed real estate broker shall have and maintain a definite place of business in the State, in compliance with this chapter and the rules of the commission, and shall display therein the real estate broker's license and upon request make available any associating real estate salesperson's license.
- §467-12(b) No real estate broker's branch office shall operate without a registration previously obtained under and in compliance with this chapter and the rules of the commission.
- §467-14(1) Making any misrepresentation concerning any real estate transaction.
- §467-14(2) Making any false promises concerning any real estate transaction of a character likely to mislead another.
- §467-14(3) Pursuing a continued and flagrant course of misrepresentation.
- §467-14(5) When the licensee, being a real estate salesperson, accepts any commission or other compensation for the performance of any of the acts enumerated in the definition set forth in section 467-1 of real estate salesperson from any person other than the real estate salesperson's employer or the real estate broker with whom the real estate salesperson associates or, being a real estate broker or salesperson, compensates one not licensed under this chapter to perform any such act.
- §467-14(6) Salesperson acting or attempts to act as a real estate broker or represents or attempts to represent any real estate broker other than the one employed or associated with.
- §467-14(7) Failing to account for moneys belonging to others.
- §467-14(8) Conduct constituting fraudulent or dishonest dealings.
- §467-14(10) When the licensee, being a corporation, permits any officer or employee of the corporation who does not hold a real estate broker's license to have the direct management of the real estate brokerage business thereof or permits any officer or employee thereof who does not hold a real estate salesperson's license to act as a real estate salesperson therefor.
- §467-14(11) When the licensee, being a real estate salesperson, fails to file with the commission a written statement setting forth the name of the real estate broker by whom the licensee is employed or with whom the licensee is associated.
- §467-14(12) When the licensee fails to obtain on the contract between the parties to the real estate transaction confirmation of who the real estate broker represents.
- §467-14(13) Violating this chapter, chapters 484, 514A, 514B,

- 514E, or 515, or section 516-71, or the rules adopted pursuant thereto.
- §467-14(15) Commingling the money or other property of the licensee's principal with the licensee's own.
- §467-14(16) Converting other people's moneys to the licensee's own use.
- §467-14(18) Failing to ascertain and disclose all material facts concerning every property for which the licensee accepts the agency, so that the licensee may fulfill the licensee's obligation to avoid error, misrepresentation, or concealment of material facts; provided that for the purposes of this paragraph, the fact that an occupant has AIDS or AIDS Related Complex (ARC) or has been tested for HIV (human immunodeficiency virus) infection shall not be considered a material fact.
- §467-14(20) Failure to maintain a reputation for or record of competency, honesty, truthfulness, financial integrity, and fair dealing.
- §467-20 False statement.
- §467-25 Nothing contained herein shall limit the authority of the real estate commission to take disciplinary action against any licensee for a violation of this chapter, or the rules and regulations of the commission; nor shall the repayment in full of all obligations to the real estate recovery fund by any licensee nullify or modify the effect of any other disciplinary proceeding brought pursuant to this chapter.

## Statutory Violations (HRS 436B)

- §436B-16(a) Each licensee shall provide written notice within thirty days to the licensing authority of any judgment, award, disciplinary sanction, order, or other determination, which adjudges or finds that the licensee is civilly, criminally, or otherwise liable for any personal injury, property damage, or loss caused by the licensee's conduct in the practice of the licensee's profession or vocation. A licensee shall also give notice of such determinations made in other jurisdictions.
- §436B-19(1) Failure to meet or maintain the conditions and requirements necessary to qualify for the granting of a license.
- §436B-19(2) Engaging in false, fraudulent, or deceptive advertising, or making untruthful or improbable statements.
- §436B-19(5) Procuring a license through fraud, misrepresentation, or deceit.
- §436B-19(6) Aiding and abetting an unlicensed person to directly or indirectly perform activities requiring a license.
- §436B-19(7) Professional misconduct, incompetence, gross negligence, or manifest incapacity in the practice of the licensed profession or vocation.
- §436B-19(8) Failure to maintain a record or history of competency, trustworthiness, fair dealing, and financial integrity.
- §436B-19(9) Conduct or practice contrary to recognized standards of ethics for the licensed profession or vocation.
- §436B-19(11) Engaging in business under a past or present

- license issued pursuant to the licensing laws, in a manner causing injury to one or more members of the public.
- §436B-19(12) Failure to comply, observe, or adhere to any law in a manner such that the licensing authority deems the applicant or holder to be an unfit or improper person to hold a license.
- §436B-19(13) Revocation, suspension, or other disciplinary action by another state or federal agency against a licensee or applicant for any reason provided by the licensing laws or this section.
- §436B-19(14) Criminal conviction.
- §436B-19(15) Failure to report disciplinary action within thirty days of the disciplinary decision.
- §436B-19(16) Employing, utilizing, or attempting to employ or utilize at any time any person not licensed under the licensing laws where licensure is required.
- §436B-19(17) Violations of Chapter 467, HRS, or any other rule or order of the licensing authority.

## Rules Violations (Chapter 99, HAR)

- §16-99-2 Definitions.
- §16-99-3 Conduct.
- §16-99-3(a) Licensee shall fully protect the general public in its real estate transactions.
- §16-99-3(b) Licensee shall protect the public against fraud, misrepresentation, or unethical practices in the real estate field.
- §16-99-3(d) The licensee shall recommend that title be examined, survey be conducted, or legal counsel be obtained when the interest of either party requires it.
- §16-99-3(e) The broker shall keep in special bank accounts, separated from the broker's own funds, moneys coming into the broker's possession in trust for other persons, such as escrow funds, trust funds, clients' moneys, rental deposits, rental receipts, and other like items.
- §16-99-3(f) Licensee shall see that financial obligations and commitments are in writing.
- §16-99-3(g) Licensee shall not acquire property without making the true position known in writing to the owner.
- §16-99-3(i) The brokerage firm shall not submit or advertise property without written authorization, and in any offering the price quoted shall not be other than that agreed upon with the owner as the offering price.
- §16-99-3(k) The brokerage firm shall not compensate a licensee of another brokerage firm in connection with a real estate transaction without paying directly or causing the payment to be made directly to the other brokerage firm. This requirement shall not apply in cases where the licensee is receiving compensation from a former brokerage firm for commission earned while affiliated with that former brokerage firm.
- §16-99-3(l) A licensee shall not place any sign or advertisement indicating a property is for sale, rent, lease, or exchange without the written authorization of the owner or seller and approval of the principal broker or broker in charge.
- §16-99-3(m) There shall be a principal broker or one or more brokers in charge, or both, at the principal place of business, and one or more brokers in charge at a branch office who shall be immediately responsible for the real estate operations conducted at that place of business.
- §16-99-3(n) A brokerage firm shall maintain a principal place of business located in this State at a business address registered with the commission from which the brokerage firm conducts business and where the brokerage firm's books and records are maintained.
- §16-99-3(o) Prior to the time the principal broker or the broker in charge is absent from the principal place of business for more than thirty calendar days, and no other broker in charge is registered with the principal place of business, the principal broker shall submit to the commission a signed, written notification of the absence designating a temporary principal broker or temporary broker in charge, who shall acknowledge the temporary designation by signing the notification. In case of prolonged illness or death where the principal broker or broker in charge is unable to act, another broker shall be designated as the temporary principal broker or broker in charge within thirty days of the illness or death with appropriate notification to the commission. A temporary principal broker or broker in charge arrangement shall not exceed a period of six months, with the right to extend prior to expiration for another six months for good cause and with the approval of the commission.
- §16-99-3(p) Licensee shall not act as a broker, broker-salesperson, or salesperson for more than one brokerage firm except that this subsection shall not apply to those situations as described in subsection (o).
- §16-99-3(u) The licensee shall not add or modify the terms of a party to a transaction without written consent of all the parties.
- §16-99-3(v) The licensee shall not convert other people's moneys to the licensee's own use.
- §16-99-3(w) Violation of any part of this chapter may be cause for revocation or suspension of license.
- §16-99-3.1(c)(1) If the licensee acting as the listing brokerage firm is acting alone and providing services to the buyer, the licensee shall disclose who the licensee represents in the transaction.
- §16-99-3.1(f) Unless specifically restricted by the real estate brokerage firm in writing, any real estate salesperson, employed by or associated with a real estate brokerage firm, shall be authorized to make the required disclosures on behalf of the real estate brokerage firm. Failure to make the disclosure required by subsections (b), (c), and (d) or to obtain the written confirmation thereof shall subject the real estate brokerage firm and the real estate salesperson to disciplinary action by the commission.
- §16-99-4(a) Every brokerage firm that does not immediately place all funds entrusted to the brokerage firm in a neutral escrow depository, shall maintain a

trust fund account in this State with some bank or recognized depository, which is federally insured, and place all entrusted funds therein. The trust fund account shall designate the principal broker as trustee and all trust fund accounts, including interest bearing accounts, shall provide for payment of the funds upon demand.

- §16-99-4(d) Every brokerage firm shall deposit or place trust funds received into a neutral escrow depository or in a trust fund account with some bank or recognized depository, which is federally insured, by the next business day following their receipts.
- §16-99-4(h) The principal broker or broker in charge shall not commingle client's funds with other moneys.
- §16-99-4(i) A salesperson, broker-salesperson, or employee shall not handle trust properties in any way without the express written authorization of the person's principal broker or broker in charge. A principal broker or broker in charge may authorize a salesperson, broker-salesperson, or employee, in writing, to place trust properties on behalf of the brokerage firm anywhere the principal broker or broker in charge could place them, but shall not authorize any other disposition. A principal broker or broker in charge shall be held responsible for any trust properties the principal broker or broker in charge authorizes a salesperson, brokersalesperson, or employee to handle.
- §16-99-4(j) A principal broker or broker in charge shall not allow any person to have custody or control of trust properties held by the principal broker or broker in charge except as provided in chapter 467, HRS, and this chapter.
- §16-99-5(a)(1) Reporting change within ten days of change in the licensee's legal name, residence address, and mailing address.
- §16-99-5(a)(2) The name and license number of the brokerage firm with whom the licensee is employed or associated.
- §16-99-5(i) A licensee shall be subject to disciplinary action for failure to submit notifications required by this section within ten days of the change.
- §16-99-11 Advertisements.
- §16-99-19.1(b)(2) The license name of a corporation, limited liability company, or partnership may include a trade name registered by the entity with the business registration division and with the commission, provided that the trade name complies with section 467-9, HRS.

## EDUCATION REVIEW COMMITTEE (ERC) REPORT

The ERC, for fiscal year 2012, under the leadership of Chair Scott Sherley and Vice Chair Rowena Cobb, continued to address important and varied education issues.

### FY 2012 PROGRAM OF WORK

**Continuing Education Core Course** – The Commission researched and developed its core course on law updates, rules updates, and property management for the licensing biennium and provided recommendations on the future of the core course.

**Salesperson Curriculum and Resources** – The salesperson’s curriculum continued to be offered in both a live classroom and online format.

**Broker Curriculum and Resources** – The broker’s curriculum continued to be offered in both a live classroom and online format.

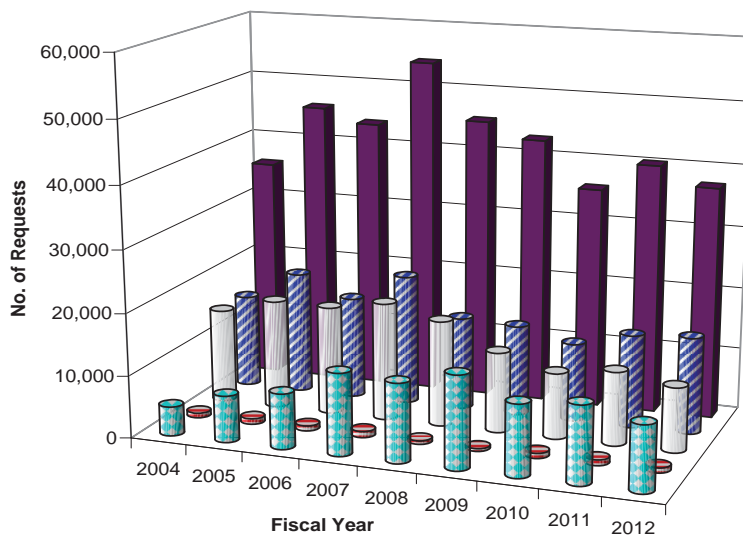
**Advice, Education, and Referral** – Staff continued to provide advice, education, and referral to applicants, licensees, government officials, consumers, public, organizations, including the research, reproduction of materials

and mailings. It developed a distribution system of educational and informational products for each principal broker and broker-in-charge. Staff also published and distributed educational and informational materials and provided educational material through the Commission’s website.

Staff continued to field a high number of telephone, walk-in, written inquiries, faxes, and emails. For real estate, the fiscal year produced 15,518 telephone inquiries; 816 walk-in inquiries; 10,390 applications, written inquiries/requests, faxes; and 10,545 emails. See Chart 9.

**Administration of Prelicense Education Program, Schools and Instructors** – The Commission provided administrative review and approval process for applications,

**CHART 9. Inquiries and Applications (FY 2004-2012)**



|                                 | 2004          | 2005          | 2006          | 2007          | 2008          | 2009          | 2010          | 2011          | 2012          |
|---------------------------------|---------------|---------------|---------------|---------------|---------------|---------------|---------------|---------------|---------------|
| E-mail                          | 4,695         | 7,499         | 8,886         | 13,193        | 12,648        | 14,950        | 11,528        | 12,444        | 10,545        |
| Walk-ins                        | 768           | 904           | 807           | 996           | 594           | 436           | 820           | 916           | 816           |
| Applications / written requests | 15,137        | 17,574        | 17,439        | 18,985        | 17,037        | 12,910        | 10,596        | 11,821        | 10,390        |
| Telephone calls                 | 15,050        | 19,738        | 16,478        | 20,995        | 14,999        | 14,576        | 12,635        | 14,965        | 15,518        |
| <b>Total</b>                    | <b>35,650</b> | <b>45,715</b> | <b>43,610</b> | <b>54,169</b> | <b>45,278</b> | <b>42,872</b> | <b>35,579</b> | <b>40,146</b> | <b>37,269</b> |

disseminated information regarding renewals and certification, and provided appropriate records management. It coordinated the instructor’s examination program with its test administrator, PSI, and administered an evaluation system of schools and instructors. Staff researched, developed, printed, and distributed the quarterly School Files, a newsletter for educators. This was a joint program with the Continuing Education Program.

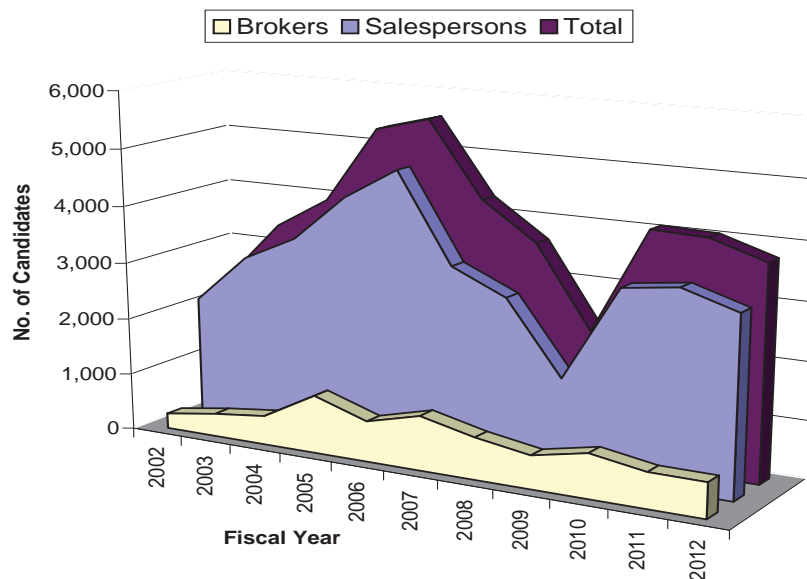
**Administration of Examinations** – The Commission administered the real estate licensing examination program, including contract administration with its test administrator, PSI. The Commission further provided information regarding the exam process, reviewed amendments to test candidate booklets, evaluated periodic examination reports and kept abreast of daily exams. The Commission, along with PSI, conducted a Test Development Workshop and Educators Forum on October 24-25, 2011, and a prelicense instructor item writing webinar on May 24-25, 2012.

**Table 2. Real Estate Licensing Examination**

|                     | FY 2011     | FY 2012     | % Change     |
|---------------------|-------------|-------------|--------------|
| Brokers Tested      | 620         | 614         | -1.0%        |
| Salespersons Tested | 3410        | 3118        | -8.6%        |
| <b>Total Tested</b> | <b>4030</b> | <b>3732</b> | <b>-7.4%</b> |
| Brokers Passed      | 286         | 293         | 2.4%         |
| Salespersons Passed | 1657        | 1599        | -3.5%        |
| <b>Total Passed</b> | <b>1943</b> | <b>1892</b> | <b>-2.6%</b> |
| % Brokers Pass      | 46.1%       | 47.7%       |              |
| % Salespersons Pass | 48.6%       | 51.3%       |              |

PSI continued offering testing at least five days a week including Saturdays in Honolulu, twice a month on Maui and the Big Island, and once a month on Kauai. As shown in Table 2 and Chart 10, the number of examination candidates decreased 7.4% from the last fiscal year. Staff periodically monitors the examination administration on each island to assure facilities and procedures comply with PSI and Commission policies.

**CHART 10. Licensing Examination Candidates (FY 2002-2012)**



|              | 2002         | 2003         | 2004         | 2005         | 2006         | 2007         | 2008         | 2009        | 2010        | 2011        | 2012        |
|--------------|--------------|--------------|--------------|--------------|--------------|--------------|--------------|-------------|-------------|-------------|-------------|
| Brokers      | 269          | 409          | 516          | 1,022        | 714          | 957          | 735          | 583         | 777         | 620         | 614         |
| Salespersons | 2,158        | 3,012        | 3,458        | 4,283        | 4,838        | 3,306        | 2,884        | 1,638       | 3285        | 3410        | 3118        |
| <b>Total</b> | <b>2,427</b> | <b>3,421</b> | <b>3,974</b> | <b>5,305</b> | <b>5,552</b> | <b>4,263</b> | <b>3,619</b> | <b>2221</b> | <b>4062</b> | <b>4030</b> | <b>3732</b> |



There were 270 applications approved for equivalency to the uniform section of the examination to candidates licensed in another state who passed that state's uniform section of the examination. This represents a 15.4% increase from the last fiscal year's total of 234 approvals.

**Administration of Continuing Education Program, Providers, and Instructors** – The Commission administered the continuing education program including the registration of providers, certification of courses and provided timely information and records management, as appropriate. Staff updated the Online Real Estate Continuing Education website as needed.

The Commission also published a quarterly newsletter, School Files, exclusively for the real estate education community. It provided schools, instructors, and continuing education providers with information on administrative procedures, changes in licensing laws, and other articles relevant to the delivery of real estate education. As with the Bulletin, School Files was published in print and in electronic format.

**Administration of Continuing Education Elective Courses** – The Commission provided administrative information to elective course providers and licensees, assisted providers in submissions, reviewed submitted applications and curriculum, made recommendations, and assisted with records management. The Online Real Estate Continuing Education system continues to provide real estate licensees with the ability to view the number of CE hours required and earned for the current licensing period, CE history, and the ability to search for future CE courses being offered by approved CE providers. Real estate licensees are also able to access and reprint their own course completion certificates for the current and previous biennia, whereas, formerly this was done by the CE providers. Additionally, real estate principal brokers and brokers-in-charge were able to monitor and view the current CE hours, CE

history, and license status of all licensees associated with the brokerage. The system was updated daily.

During the fiscal year, there were 111 newly approved CE courses, a 65.6% decrease from the approved CE courses in the previous fiscal year. Sixty-three of the courses were national courses. There were five newly approved CE providers. CE providers offered 1,634 classes to 24,731 participants, as compared to the previous fiscal year of 1,514 classes offered to 35,729 participants.

**Ad Hoc Committee on Education (ACE)** – The Commission's ACE reviewed, recommended, assisted in development, update and administration of education-related projects and continuing education. ACE conducted three meetings during the fiscal year: January 10, February 2, and June 19, 2012. ACE assisted in the development of the topics for the Commission's 2013-2014 Core Course, Part I and Part II.

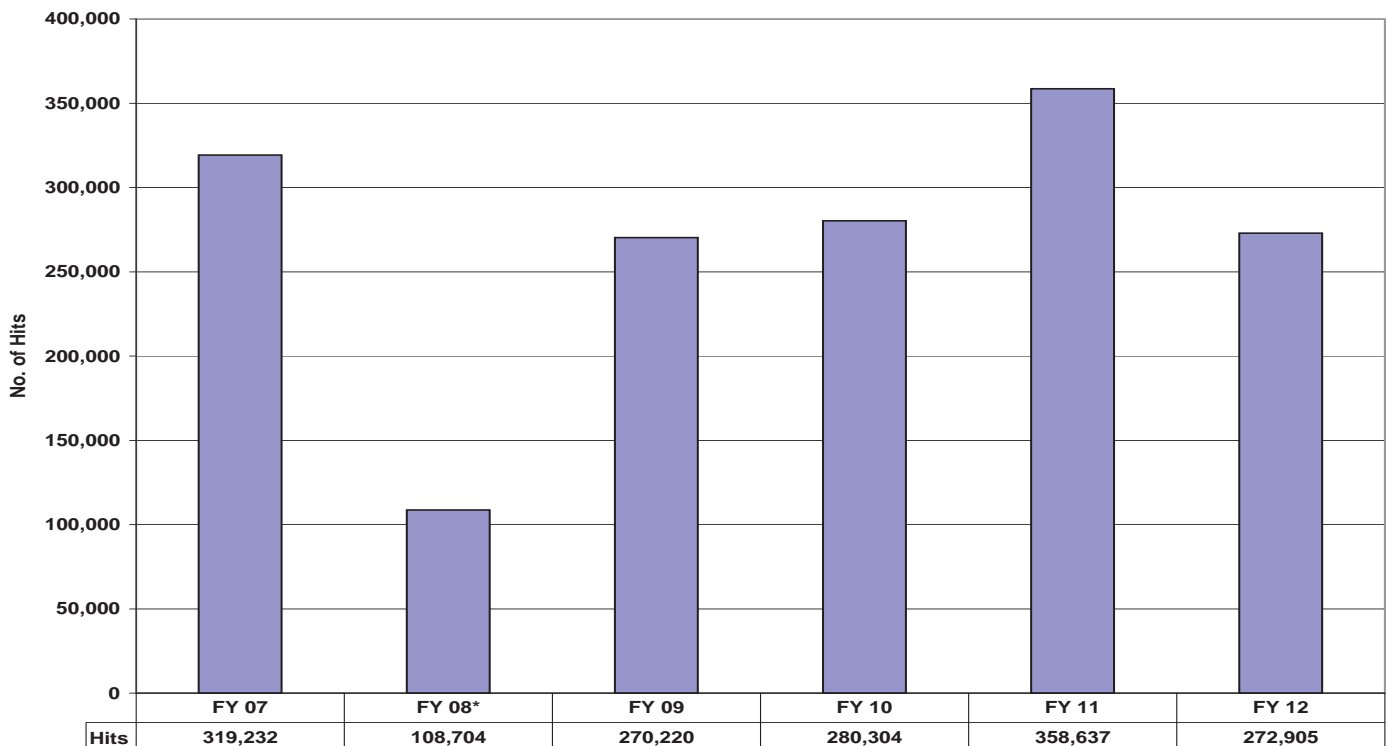
**Meetings and Symposium** – The Commission, with staff support, planned, coordinated, and conducted monthly Education Review Committee meetings.

**Annual Report and Quarterly Bulletin** – Staff researched, developed, and distributed the Commission's Annual Report. Staff researched, edited, printed, and distributed the quarterly Real Estate Commission Bulletin; and continued contract administration with consultant and procurement code management.

The Commission continued to publish the Real Estate Commission Bulletin in a traditional newsletter format that was mailed to all current licensees, legislators, government officials, ARELLO jurisdictions, and other interested parties. It was also available in electronic format on the Commission's website at [www.hawaii.gov/hirec](http://www.hawaii.gov/hirec).



## CHART 11. Website Hits



\*Webstats available for the period of January 11 through June 30, 2008 only

In contrast to the Bulletin, the Commission's Annual Report is primarily an electronic publication. A limited number of printed copies were distributed to the Legislature and to the Governor. Interested licensees and members of the public could download and print the report from the Commission's website.

### **Real Estate Education Fund (REEF) –**

The Commission maintained and reviewed the budget, finance, and records for REEF; prepared quarterly and annual financial statements; prepared annual and biennial budgets; and administered fund investment programs, including contract administration and procurement code management.

**Neighbor Island Outreach** – The Commission held three Committee meetings at various neighbor island sites (Kona in September 2011, Maui in January 2012, and Kauai in May 2012). The meetings, when held, afford neighbor island licensees, government officials, and interested parties an opportunity to attend and participate

in the committee meetings.

### **Interactive Participation with Other Organizations**

– The Commission continued its participation in events sponsored by local and national organizations. On a national level, the Commission continued its active participation with the Association of Real Estate License Law Officials (ARELLO) and the Real Estate Educators Association (REEA). Participation in local, national and international organizations offers an opportunity to learn about the latest issues, trends, and solutions in the industry, exchange information and concerns, share education and research efforts, joint projects of mutual concern, and training.

**Real Estate Seminars** – The Commission contracted with the Hawaii Association of REALTORS® to provide a statewide seminar during the 2011-2012 biennium for real estate licensees through a contractor, via subsidy, sponsoring, assisting, or co-sponsoring.

**Legislative Participation, Research, and Report** – The Commission researched, participated, and reported on requests by the Legislature, including resolutions, agreements, and issues of mutual concern.

**Instructor’s Development Workshop** – The Commission contracted with the Hawaii Association of REALTORS® to co-sponsor an Instructor’s Development Workshop (IDW) during the 2011-2012 biennium. “Course Developer Workshop” was presented on September 14, 2011. On November 1 and 2, 2011, “T3-Training Trainers to Train”, the IDW originally presented in the prior biennium, was again offered to accommodate those instructors unable to attend the first presentation in the prior biennium.

**Evaluation and Education System for CE and Prelicensing Instructors, Courses, Providers, and Schools** – The Commission administered an evaluation system of prelicensing and continuing education instructors.

**Real Estate Specialists’ Office for the Day** – The Specialists’ Office for the Day provides staff with an opportunity to meet in person with licensees, applicants, prospective licensees, and members of the public. An additional benefit when the sessions are held at the local Boards of REALTORS®’ offices is the opportunity to exchange information with the staff and membership of the local Boards.

**Real Estate Speakership Program** – Subject to State government approvals and priorities, the Commission, along with staff, honored requests to provide a speaker, resource person, or be an active participant in functions related to real estate education.

**Prelicensing Education Equivalency Administration** – The Commission administered applications for prelicensing education equivalencies, including consultation with ARELLO.

**Uniform Section Equivalency of Prelicensing Examination** – The Commission administered applications for the equivalency to the uniform part of the exam based on passage of the uniform part of another state’s exam.

**Technology and Website** – Staff administered an in-house network computer system in coordination with DCCA’s Information Systems coordinator. Staff also conducted in-house training, coordinated the purchase of computer hardware and software, and developed database programming.

The Commission’s website, [www.hawaii.gov/hirec](http://www.hawaii.gov/hirec), is available seven days a week, 24 hours each day for information, forms, and applications. The website has received well over 272,000 real estate and condominium related hits. Due to a change in the program adopted by the State Information Systems and Communications Office, some previously collected webstats are no longer available. See Chart 11.

**Records Management** – Staff evaluated, planned, reorganized, and implemented a centralized, consistent, user friendly, computerized glossary of existing and future records and files.

**Information Distribution System** – Staff researched, developed, and implemented a centralized information distribution system for all the education products produced by the Commission. Staff standardized policies and procedures for distribution, purchasing, copyright, specific permission copying or generic permission copying of brochures, reports, and video tapes.

**New Salesperson and New Broker Start-up Kits** – Staff packaged and distributed start-up kits to newly licensed salespersons and brokers.

**Cooperative Education, Research, and Administration Program** – The Commission actively participated in and sponsored cooperative education, research, and administrative programs for those individuals, branches, divisions, department personnel, and the Department of Attorney General that provided direct or indirect services to the Commission or were part of a real estate related program.

**Division and Department Programs** – The Commission coordinated activities and programs of mutual concern with PVLD and DCCA.

**Staff and Commissioners Development** – Staff developed and trained staff and Commissioners for better administration of the real estate programs. Commissioners, as well as staff, participated in training and educational opportunities provided by REEA, ARELLO, CAI, CLEAR, and other organizations.

**Real Estate Reference Library** – The Commission subscribed and purchased real estate reference materials for public review.

## Licensees

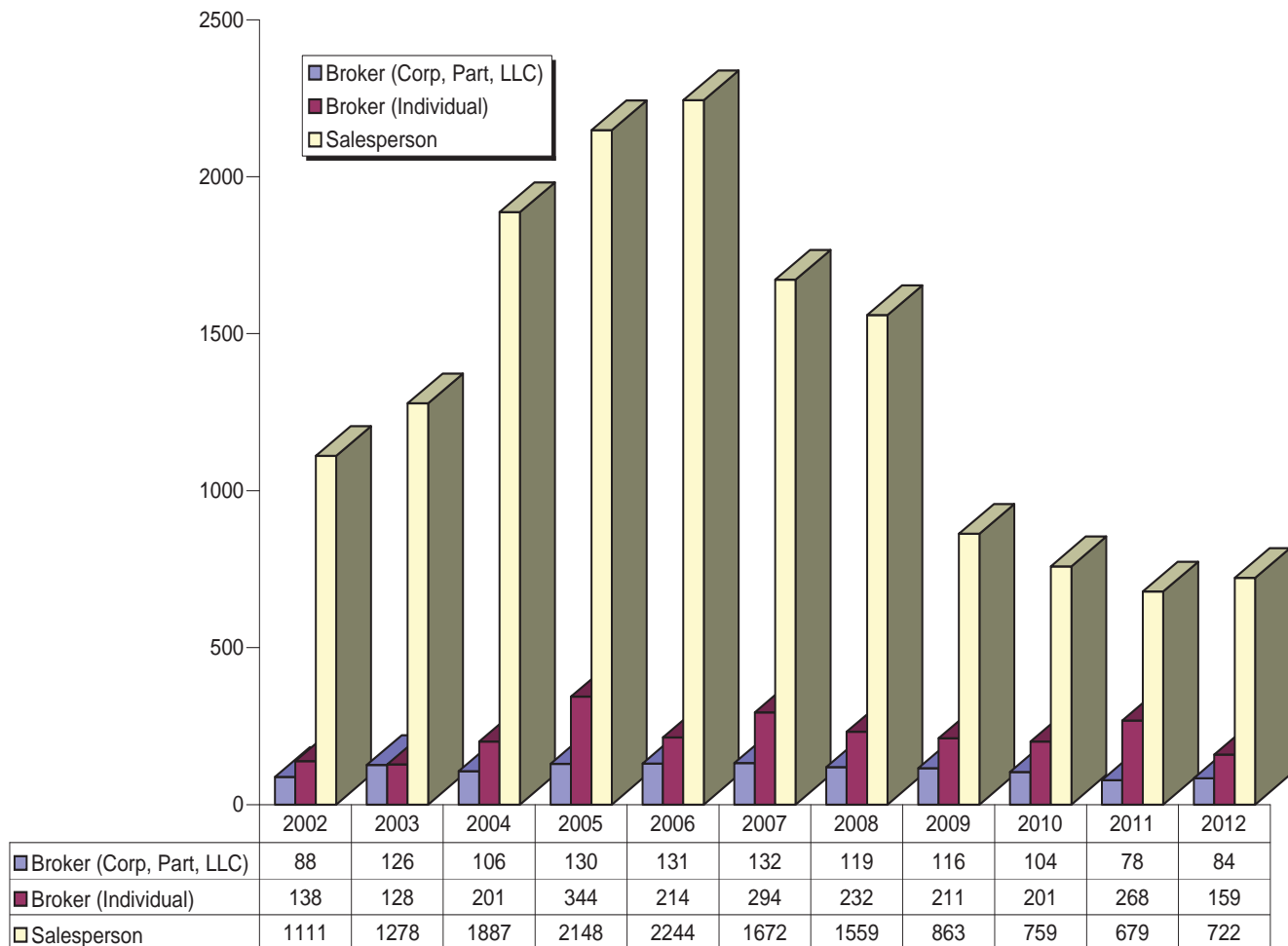
### New Licenses

The number of new licenses issued in FY 2012 decreased 5.9% over the prior fiscal year. During FY 2012, 965 new licenses were issued. Individual broker licenses decreased by 40.7%, new salesperson licenses increased by 6.3%, and new entity licenses increased by 7.7%. Refer to Chart 12.

### Current Licenses

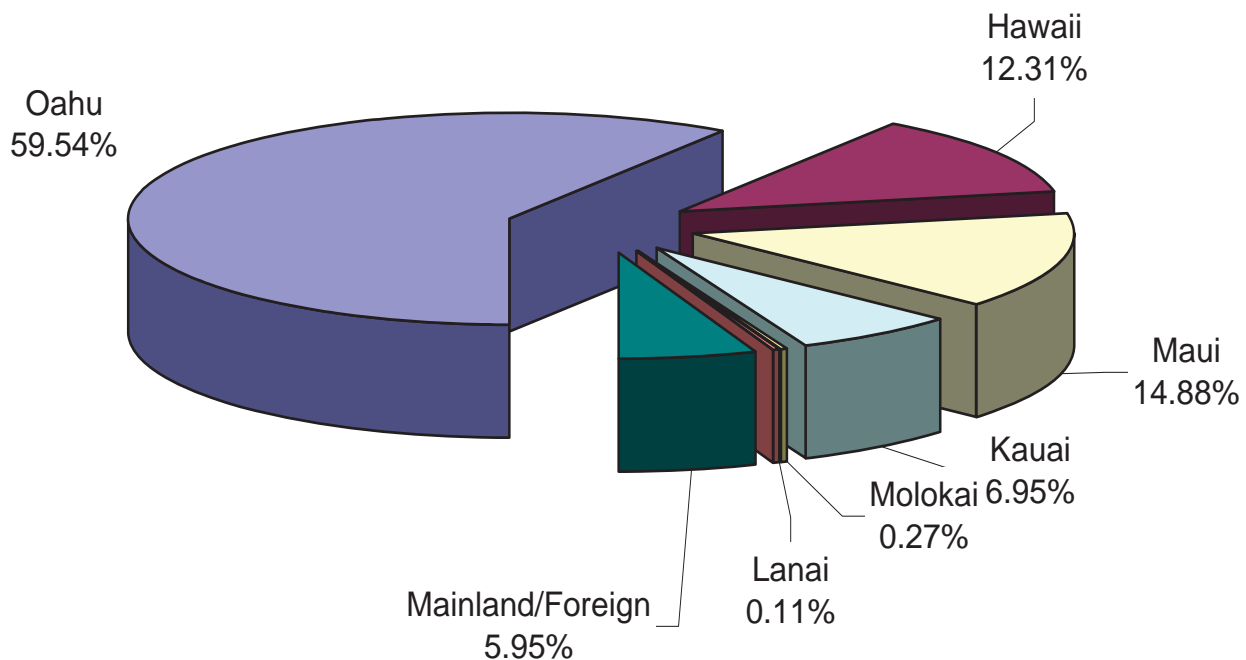
The overall number of current real estate licenses increased 6.5% by the end of FY 2012. In FY 2012, active licenses increased 2.4% over last year, while inactive licenses increased 15.4%. There was a .7% decrease of active licenses on Maui, a .3% increase on Kauai, a 1% increase on Hawaii, a 4% increase on Oahu, a 4.5% decrease on Molokai and a 16.7% decrease on Lanai. Refer to Table 3, Charts 13 and 14.

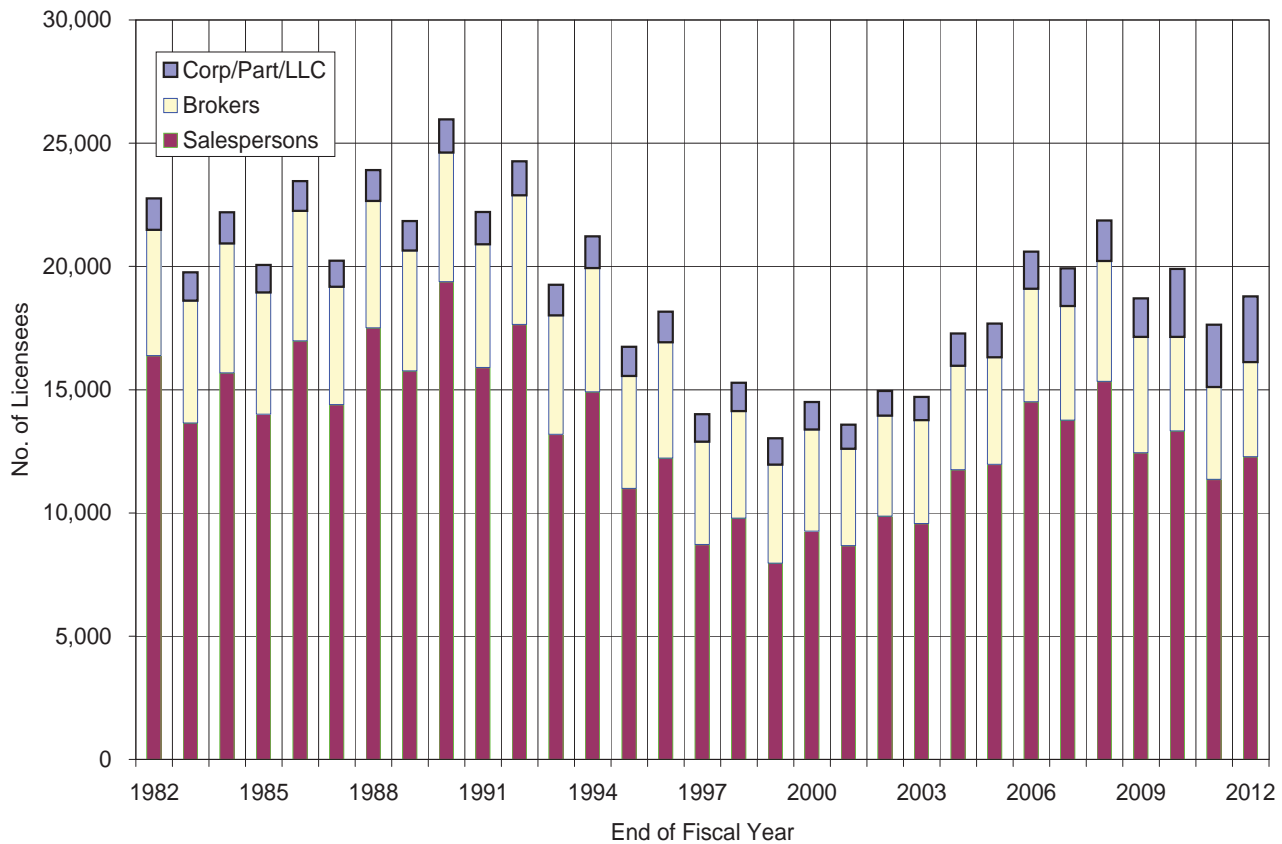
**CHART 12. New Real Estate Licenses Issued**



**Table 3. Current Real Estate Licensees - By License Type and Island (July 2011)**

|                               | Oahu          | Hawaii       | Maui         | Kauai        | Molokai   | Lanai     | Other        | Total         |
|-------------------------------|---------------|--------------|--------------|--------------|-----------|-----------|--------------|---------------|
| <b>Active</b>                 |               |              |              |              |           |           |              |               |
| Broker                        | 1,960         | 470          | 455          | 217          | 16        | 3         | 65           | 3,186         |
| Salesperson                   | 4,306         | 840          | 1,136        | 479          | 17        | 5         | 141          | 6,924         |
| Sole Proprietor               | 702           | 147          | 109          | 64           | 3         | 0         | 2            | 1,027         |
| Corporation, Partnership, LLC | 983           | 230          | 231          | 111          | 6         | 2         | 2            | 1,565         |
| <b>Total Active</b>           | <b>7,951</b>  | <b>1,687</b> | <b>1,931</b> | <b>871</b>   | <b>42</b> | <b>10</b> | <b>210</b>   | <b>12,702</b> |
| <b>Inactive</b>               |               |              |              |              |           |           |              |               |
| Broker                        | 297           | 59           | 44           | 35           | 0         | 1         | 214          | 650           |
| Salesperson                   | 2,895         | 558          | 807          | 395          | 7         | 8         | 680          | 5,350         |
| Sole Proprietor               | 0             | 0            | 2            | 0            | 0         | 0         | 0            | 2             |
| Corporation, Partnership, LLC | 43            | 8            | 11           | 5            | 1         | 1         | 13           | 82            |
| <b>Total Inactive</b>         | <b>3,235</b>  | <b>625</b>   | <b>864</b>   | <b>435</b>   | <b>8</b>  | <b>10</b> | <b>907</b>   | <b>6,084</b>  |
| <b>Active and Inactive</b>    |               |              |              |              |           |           |              |               |
| Broker                        | 2,257         | 529          | 499          | 252          | 16        | 4         | 279          | 3,836         |
| Salesperson                   | 7,201         | 1,398        | 1,943        | 874          | 24        | 13        | 821          | 12,274        |
| Sole Proprietor               | 702           | 147          | 111          | 64           | 3         | 0         | 2            | 1,029         |
| Corporation, Partnership, LLC | 1,026         | 238          | 242          | 116          | 7         | 3         | 15           | 1,647         |
| <b>Total</b>                  | <b>11,186</b> | <b>2,312</b> | <b>2,795</b> | <b>1,306</b> | <b>50</b> | <b>20</b> | <b>1,117</b> | <b>18,786</b> |

**CHART 13. Real Estate Licensees - By Island**

**CHART 14. Total Real Estate Licensees**

## FY 2013 PROGRAM OF WORK

### Education Review Committee

- Continuing Education Core Course
- Salesperson Curriculum and Resources
- Broker Curriculum and Resources
- Advice, Education, and Referral
- Administration of Prelicense Education Program, Schools, and Instructors
- Administration of Examinations
- Administration of Continuing Education Program, Providers, and Instructors
- Administration of Continuing Education Elective Courses
- Ad Hoc Committee on Education (ACE)
- Meetings and Symposium
- Annual Report and Quarterly Bulletin
- Real Estate Education Fund (REEF)
- Neighbor Island Outreach
- Interactive Participation with Organizations
- Real Estate Seminars
- Legislative Participation, Research, and Report
- Instructor's Development Workshop
- Evaluation and Education System for Continuing Education and Prelicensing Instructors, Courses, Providers, and Schools
- Real Estate Specialist Office for the Day
- Real Estate Speakership Program
- Prelicensing Education Equivalency Administration
- Uniform Section Equivalency of Prelicensing Examination
- Technology and Website
- Records Management
- Information Distribution System
- New Salesperson and New Broker Start-up Kits
- Cooperative Education, Research, and Administration Program
- Division and Department Programs
- Staff and Commissioners Development
- Real Estate Reference Library

## CONDOMINIUM REVIEW COMMITTEE (CRC) REPORT

For fiscal year 2012, under the leadership of Chair Michele Loudermilk and Vice Chair Nikki Senter, the CRC continued with the implementation challenges of Chapter 514B, Hawaii Revised Statutes (HRS), including the challenges of new legislation. During this same period, the CRC continued with the administration of the original condominium law, Chapter 514A, HRS, as well as other planned programs of work.

The CRC is a Commission standing committee that holds monthly public meetings in which condominium issues are presented, discussed, examined, and considered. It is a working committee that handles “nuts and bolts” issues. Developers, apartment owners, boards of directors, condominium managing agents, attorneys, educators, researchers, government officials, and others with condominium concerns participate at the meetings. The responsibilities of the CRC include: registration of condominium projects by developers; condominium association registrations; and governance, education and research programs, inclusive of the programs funded under the Condominium Education Trust Fund (CETF).

The law allows the Commission to expend monies from the CETF funds for educational purposes which include financing or promoting:

1. Education and research in the field of condominium management, condominium project registration, and real estate, for the benefit of the public and those required to be registered under this chapter;
2. The improvement and more efficient administration of associations;
3. Expeditious and inexpensive procedures for resolving association disputes.

The Commission may use any and all moneys in the CETF for purposes consistent with the above. Additionally, the law requires the Commission to submit to the legislature annually: (1) a summary of the programs funded during the prior fiscal year with funds from the CETF; (2) the amount of money in the fund; (3) a copy of the budget for the current fiscal year, including summary information on programs which were funded or are to be funded; (4) a statement of which programs were directed specifically at the education of condominium owners; (5) summary information on programs that were funded or are to be funded and the target audience for each program; and (6) a budget for the current fiscal year that includes a line item reflecting the total amount collected from condominium associations. As noted in this report many of the funded programs for this fiscal year and many of the funded programs for the next fiscal year have been modified in part or postponed in response to the State’s current economic challenges and budgetary constraints.



## FY 2012 PROGRAM OF WORK

### Condominium Laws and Education –

Concurrently with the administration of Chapter 514A, HRS, the Commission participated in the legislative process to fine-tune Chapter 514B, HRS, effective July 1, 2006, and the continued implementation of this law. With the help of stakeholder organizations and volunteers, the Commission continued the development and refinement of appropriate new and amended forms (including web based online fillable forms), instructions, informational sheets, procedures and evaluative processes, curriculum, materials and handouts. With the assistance of stakeholder organizations, the Commission continued with a statewide promotion and delivery of Commission-subsidized seminars.

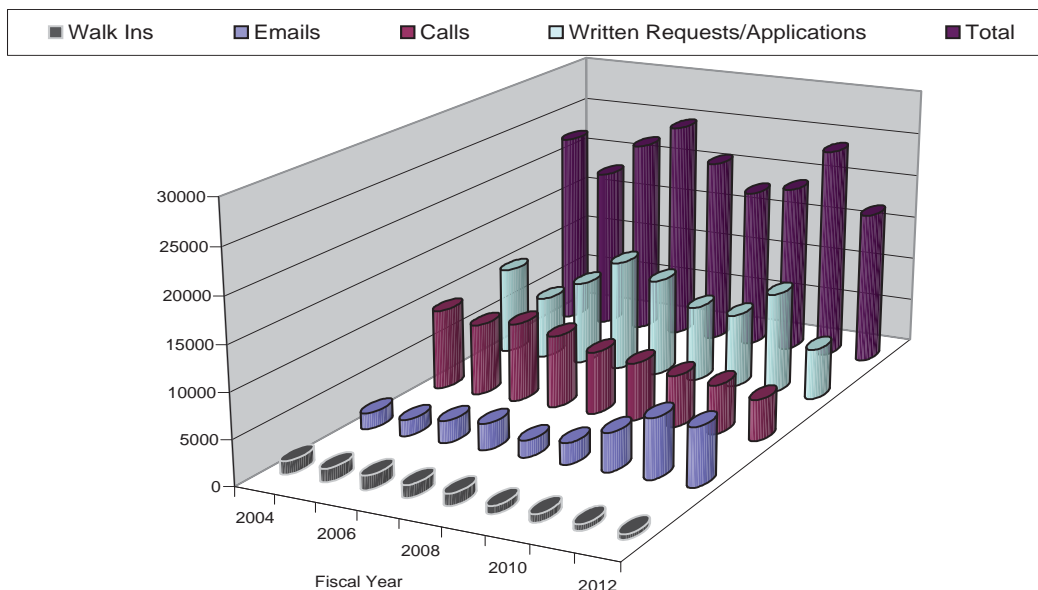
Pursuant to Subchapter 5 of Chapter 201, Title 16, Hawaii Administrative Rules, the CRC issued two informal non-binding interpretations of the provisions of Chapter 514B, HRS, and made them available to interested

parties directly and online at the Commission’s website.

In implementing Chapter 514B, HRS, the CRC looks forward to the continuing support of the condominium governance and development communities, attorneys specializing in condominium law, the Hawaii State Bar Association-Real Property Section, and the real estate industry. To these committed organizations and groups, the Commission extends a big Mahalo.

In addition, with the help of stakeholder organizations and volunteers, the Commission continued to review and amend existing Commission-developed educational materials, new and amended forms, instructions, informational sheets, procedures and evaluative processes and explored delivery of educational seminars on the Commission’s website.

**Chart 15. Condominium Advice, Education, and Referral**



|                               | 2004         | 2005         | 2006         | 2007         | 2008         | 2009         | 2010         | 2011         | 2012         |
|-------------------------------|--------------|--------------|--------------|--------------|--------------|--------------|--------------|--------------|--------------|
| Walk Ins                      | 1480         | 1473         | 1551         | 1388         | 1322         | 874          | 875          | 690          | 560          |
| Emails                        | 1819         | 1812         | 2487         | 2940         | 1890         | 2394         | 4295         | 6648         | 6469         |
| Calls                         | 9050         | 8064         | 8863         | 8157         | 7014         | 6459         | 5783         | 5479         | 4590         |
| Written Requests/Applications | 9819         | 7027         | 9461         | 12535        | 11035        | 8566         | 8300         | 11399        | 5721         |
| <b>Total</b>                  | <b>22168</b> | <b>18376</b> | <b>22362</b> | <b>25020</b> | <b>21261</b> | <b>18293</b> | <b>19253</b> | <b>24216</b> | <b>17340</b> |

**Advice, Education, and Referral** – The Commission responded and provided information to inquiries from the condominium community, developers, consumers, licensees, government officials, organizations, interested parties and the public, via telephone, walk-ins, faxes, written correspondence, emails, the Condominium Bulletin and through the Commission’s website. See Chart 15.

**Condominium Project and Developer’s Public Reports** – Staff continued the implementation and administration of the condominium project registration program, pursuant to Chapters 514A and 514B, HRS. With the help of stakeholder organizations, volunteers, other governmental agencies, and interested attorneys, the Commission continued its evaluation and development of new processes, records, forms, information documents and rules. Staff continued working with procured consultants to assist with condominium project-related tasks. It continued to make developer’s public reports available for public viewing and copying to disc via the Commission’s website. The Commission continued to study and research the formulation of a comprehensive evaluation system on the project registration and review process, including the use of evaluation forms by developers and attorneys. Staff continued to research and study a plan for the electronic administration of condominium project files, including the scanning of documents on CDs. The Commission continued its work of procuring and contracting with condominium consultants to assist the Commission with the administration of registering condominium projects and issuance of effective dates for developer’s public reports, which reports are mandated for sales of condominium units.

**Hawaii Condominium Bulletin** – The Commission continued the research, development, publication and online posting of a quarterly bulletin for the condominium community.

### **Condominium Apartment Owners on the Commission**

The following members of the Real Estate Commission are condominium owner/occupants:

**Walt Harvey**  
**Aileen Wada**

The following members of the Real Estate Commission are condominium owners:

**Rowena Cobb**

During FY 2012, in continuing efforts to “go green”, the Commission maintained the online distribution of the Condominium Bulletin. Staff continued the procurement code management and administration of the contract with consultants assisting in the design, layout, and online publication of the bulletin. During this fiscal year, the Disability and Communications Access Board, State of Hawaii, and the Hawaii State Civil Defense Agency contributed articles for the Condominium Bulletin.

**Condominium Mediation and Arbitration Program** – The Commission subsidized mediation programs on four islands and worked with various mediation providers, including the Mediation Center of the Pacific on Oahu to provide educational seminars about alternative dispute resolution and mediation for boards of directors, apartment owners and CMAs. Evaluative mediation continued to be offered as a program option along with facilitative mediation. Staff collected statistical information for education and Annual Report purposes (See Chart 16). During FY 2012, the Commission renewed contracts with mediation providers for an additional year. Staff updated the Commission mediation brochure

to reflect changes in the law and for distribution to the condominium community on the Commission website.

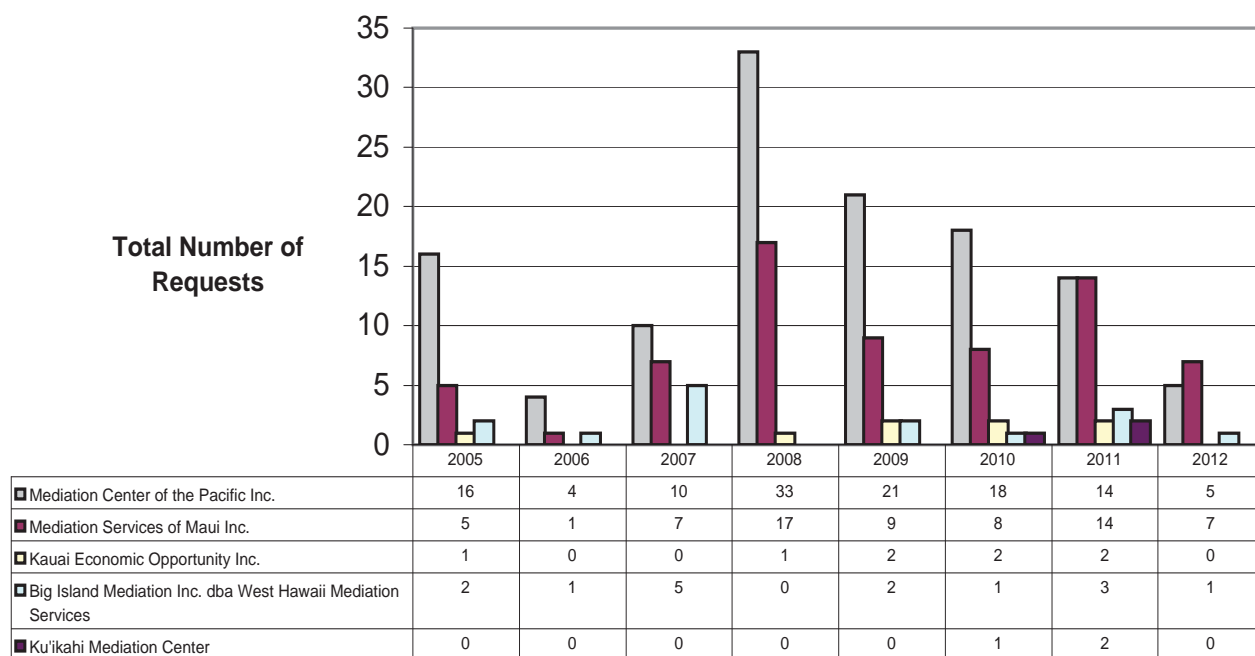
**Condominium Association Registration –** The Commission administered the condominium association registration program, including a review of submitted applications and the assessment of Commission registration policies and procedures. It also considered appeals, subpoenas, and requests for records under Office of Information Practices rules and procedures. For FY 2012, the Commission continued its biennial condominium association registration. There were 1,649 condominium projects registered, representing 156,846 condominium units, registered with the Commission (See Chart 17). In addition, the Commission continued the implementation of an online registration process and continued to make available on the Commission website a list of all association contact information. The Commission also responded to requests for lists of pet-friendly,

leaseholds, and Neighbor Island-specific condominium associations.

**Condominium Seminars and Symposiums –** The Commission continued to produce seminars for the condominium community utilizing Commission staff, procured providers, and volunteer faculty of representatives from the condominium governance, development, and real estate community. The Commission continued to administer CETF subsidies for Commission-approved seminars, including the following for FY 2012:

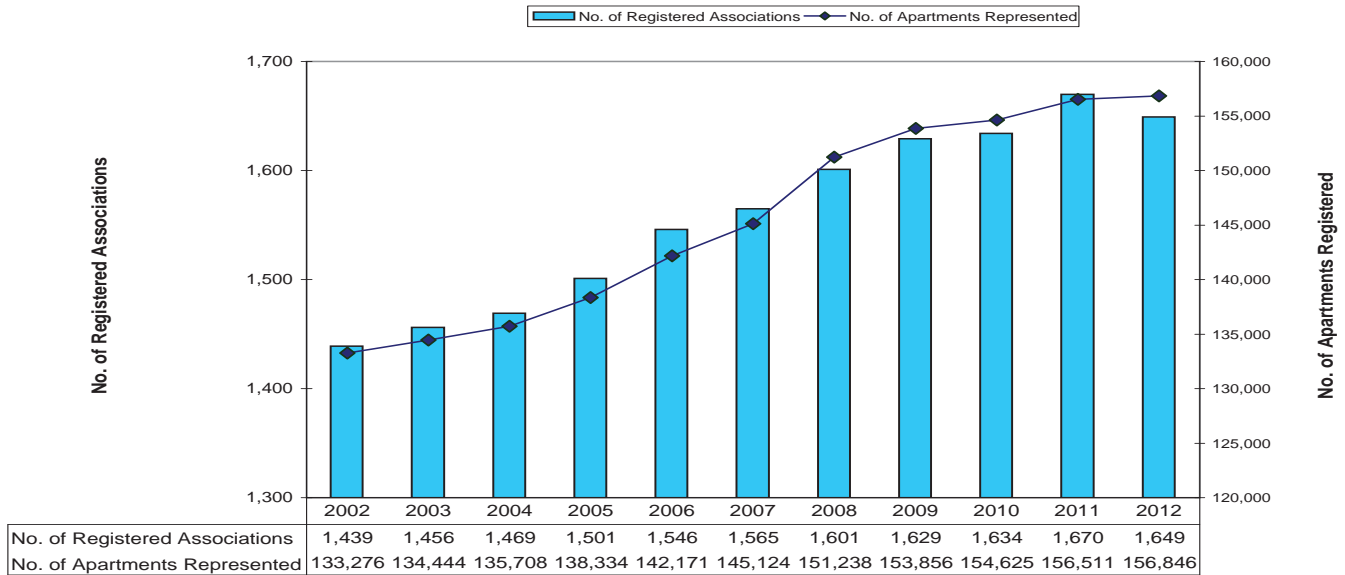
- July 2011 – Legislative Update
- August 2011 – Dealing with Criminal Elements in Associations
- October 2011 – Covenants Enforcement
- January 2012 – Board Blunders
- March 2012 – Insurance – How Much is Enough? (Kona)
- May 2012 – Insurance – How Much is Enough? (Honolulu)

**Chart 16. Condominium Governance Mediations**



### Chart 17. Condominium Association Registration

Condominium Association Registration FY 2002 - 2012



**Ad Hoc Committee On Condominium Education and Research** – The CRC will continue to administer this volunteer group which reviews, recommends and assists in the development, update and administration of condominium education-related projects. The Commission expanded the advisory group’s focus to include recommendations for a Commission five year educational strategic plan for condominium education. The work of the group was deferred this year due to budgetary constraints.

**Condominium Managing Agents Registration** – Staff reviewed policies and procedures for registration and responded to requests for records under OIP rules and procedures. See Chart 18.

**Rulemaking, Chapter 107** – The Commission continued the rulemaking process for HAR, Chapter 107. This fiscal year, at regular monthly meetings, the Commission continued to discuss preliminary draft rules for Chapter 514B, HRS, and welcomed input from stakeholder groups and interested parties.

**Meetings** – The Commission continued to plan, coordinate, and conduct monthly CRC meetings and included the schedule of meetings and agendas on the Commission’s website. CRC meetings are open to the public and are a means for the condominium consumer to bring issues before the Commission and to become knowledgeable about the issues facing the CRC.

**Government and Legislative Participation and Report** – The Commission participated in all aspects of the legislative process, including researching, responding to, and reporting on requests from the Legislature and reviewing resolutions, agreements, and issues of mutual concern. In addition to researching, preparing, and presenting testimony on a number of condominium bills that would directly and indirectly affect condominiums, staff assisted the CRC in monitoring and tracking all condominium related bills generated in the House and Senate. The Commission researched, developed, and distributed its Annual Report to the Legislature on the CETF program and funds, and upon comple-



**Neighbor Island Outreach** – The Commission held three Committee meetings at various neighbor island sites (Kona in September 2011, Maui in January 2012, and Kauai in May 2012). The meetings, when held, afford neighbor island licensees, government officials, and interested parties an opportunity to attend and participate in the committee meetings.

**Condominium Education Trust Fund (CETF)** – The Commission continued to administer the CETF funds for educational purposes during this fiscal year. The Commission prepared, maintained, and reviewed quarterly and annual financial statements, budget and finance records for both educational funds, and administered the funds' investment. The Commission also planned and worked with the DCCA to increase the budget for funding the Commission's educational efforts, the implementation of Chapter 514B, HRS, and for additional educational programs subject to revenue projections. The plans included rulemaking, increasing the CETF fees for condominium owners and developers.

**Consumer Education** – The Commission's consumer education efforts continued to focus on education through sponsored seminars, responding to telephone, email and written inquiries from the public, and the posting of online educational materials on the Commission's website. Additional educational programs and services are contingent on efforts of the Commission to increase funding of the CETF.

**Rule Making, Chapter 53, Fees** – The Commission continued the rulemaking process and monitored, reviewed, researched, and recommended specific rules which would increase the condominium developers' and unit owners' contributions to the CETF to address the CETF's projected budget shortfalls, anticipated to begin as early as fiscal year 2012. The Commission continued coordinat-

ing the adoption of the fee recommendations and related amendments with the Department and the Licensing Administrator.

**CPR Project Workshop and Meetings** – The Commission's 10 condominium consultants continued to assist the Commission in reviewing condominium project registration documents. The Commission conducted its annual informational session for the condominium consultants providing the consultants an opportunity to come together and share their ideas for facilitating the processing of condominium project registration and documents.

**Condominium Specialists Office for the Day** – In conjunction with the Commission's Neighbor Island Outreach, the Condominium Specialist office for the Day was held on Kona in September 2011, Maui in January 2012, and Kauai in May 2012.

**Condominium Speakership Program** – Subject to State government approvals and priorities, the Commission honors requests to provide a speaker, resource person, or participant in a function related to condominium education, the condominium law and related issues, and condominium project registration. This program allows staff to educate the general public and condominium owners in particular, about the condominium law.

**Technology and Website** – The Commission continued to operate its website for public interaction and education. It maintained and updated the electronic storage of materials providing online access to the public of the developer's public reports, condominium association registration data and other information. Pursuant to Chapter 514B, HRS, the Commission continued to post and make available the new developer's public report form and other related forms form-fillable and downloadable. The forms were evaluated and amended to meet the continuing imple-



mentation challenges. The Commission will continue to work towards its long-range goal of providing all condominium information online and to study the feasibility of providing associations with a central depository for all governing documents on the website, including minutes of association meetings.

**Case Law Review Program** – The Commission continued to monitor, collect, and report on state and federal law judgments and decisions, administrative decisions, and policies and procedures; report on governance and project development cases; and evaluate cases for inclusion in the Condominium Bulletin.

**Start-up Kit for New AOUs and New CMAs** – Commission staff distributed start-up kits to newly registered AOUs, which included unofficial copies of Chapters 514A and 514B, HRS, copies of administrative rules for Chapters 514A and 514B, HRS, guides for budget and reserves, boards of directors, condominium owners and past condominium bulletins.

**Records Management** – Commission staff evaluated, planned, reorganized, and implemented a centralized, consistent, user friendly, computerized glossary of existing and future educational materials, records, and developers' public reports and files. Staff also maintained and updated the scanning and electronic storage of records, including developer's public reports.

**Cooperative Education, Research, and Administrative Program** – Due to budgetary constraints, the Commission tabled participation in and the sponsoring of cooperative education and research and administrative programs for those persons, branches, divisions, department personnel, and the Office of the Attorney General which provide direct or indirect services to the Commission and its condominium education trust fund and

condominium project registration program.

**Division and Department Program** – The Commission continued the coordination of activities and programs of mutual concern with PVLD, RICO, and DCCA.

**Staff and Commissioners Development** – Materials were developed for training staff and Commissioners to better administer the condominium education and registration programs. Commissioners, as well as staff, participated in training and educational opportunities provided by local organizations.

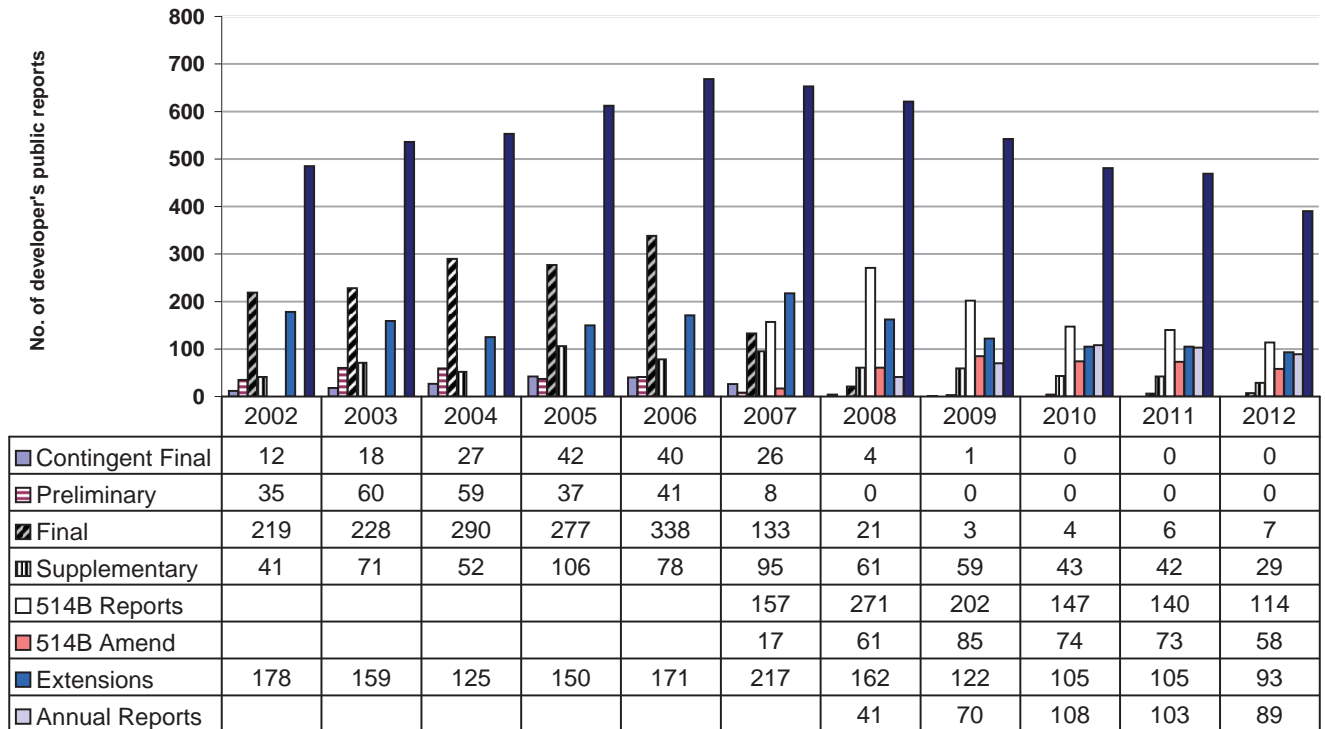
**Condominium Reference Library** – Staff continued to maintain a catalog of all public reference materials provided to State Libraries (especially in highly concentrated CPR areas) and mediation services offices (neighbor islands included) at the Real Estate Branch office and on the Commission's website.

This fiscal year the following programs, previously summarized, benefited condominium owners and/or were directed at the education of condominium owners:

- Condominium Laws and Education;
- Advice, Education, and Referral;
- Hawaii Condominium Bulletin;
- Condominium Mediation and Arbitration Program;
- Condominium Association Registration;
- Condominium Seminars and Symposium;
- Ad Hoc Committee on Condominium Education and Research;
- Rulemaking, Chapter 107;
- Meetings;
- Government and Legislative Participation and Report;
- Legislative Acts and Resolutions;
- Interactive Participation with Organizations;
- Neighbor Island Outreach;
- Condominium Education Trust Fund;
- Consumer Education;

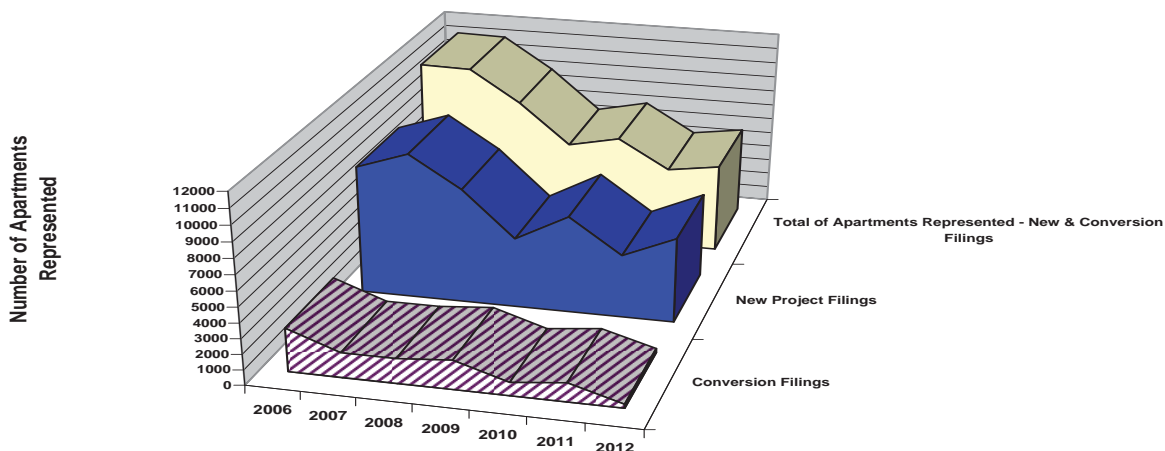


**Chart 19. Developer's Public Reports Effective Dates Issued**



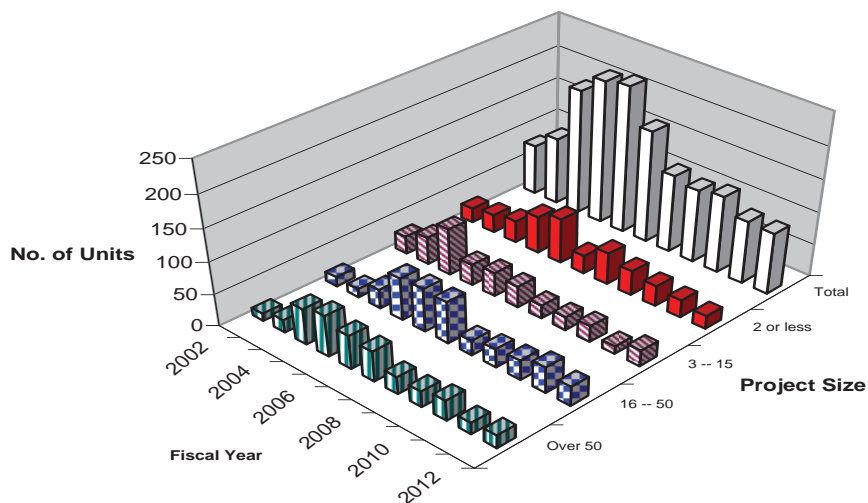
**Chart 20. Number of Condominium Apartments**

**New and Conversion Project Filings of Developers**



|  | 2006  | 2007  | 2008 | 2009 | 2010 | 2011 | 2012 |
|--|-------|-------|------|------|------|------|------|
| Conversion Filings   | 2834  | 1619  | 1619 | 1910 | 851  | 1229 | 262  |
| New Project Filings  | 8409  | 9538  | 7509 | 4594 | 6359 | 4118 | 5565 |
| Total of Apartments Represented - New & Conversion Filings | 11243 | 11157 | 9128 | 6504 | 7210 | 5347 | 5827 |

### Chart 21. New Residential Projects - By Size



|           | 2002 | 2003 | 2004 | 2005 | 2006 | 2007 | 2008 | 2009 | 2010 | 2011 | 2012 |
|-----------|------|------|------|------|------|------|------|------|------|------|------|
| Over 50   | 12   | 20   | 56   | 64   | 52   | 47   | 27   | 25   | 31   | 18   | 20   |
| 16 -- 50  | 15   | 13   | 30   | 66   | 67   | 65   | 23   | 29   | 31   | 40   | 30   |
| 3 -- 15   | 27   | 42   | 72   | 33   | 37   | 33   | 21   | 21   | 25   | 12   | 25   |
| 2 or less | 23   | 28   | 34   | 57   | 70   | 28   | 49   | 38   | 32   | 27   | 20   |
| Total     | 77   | 103  | 192  | 220  | 226  | 173  | 120  | 113  | 119  | 97   | 95   |

**Table 4. Condominium Project Filings**

| <b>New Projects</b>  | <b>2006</b>                | <b>2007</b>                | <b>2008</b>               | <b>2009</b>               | <b>2010</b>               | <b>2011</b>               | <b>2012</b>               |
|--|----------------------------|----------------------------|---------------------------|---------------------------|---------------------------|---------------------------|---------------------------|
| Residential<br>No. of Apartments Represented   | 230<br>6203                | 178<br>6582                | 146<br>4249               | 118<br>2928               | 120*<br>2842              | 98*<br>2126               | 95*<br>3118               |
| Commercial and Other<br>No. of Apartments Represented  | 47<br>89                   | 29<br>2793                 | 37<br>3208                | 20<br>1473                | 8<br>3401                 | 12<br>1916                | 15<br>2314                |
| Agricultural<br>No. of Apartments Represented  | 34<br>2117                 | 42<br>163                  | 41<br>52                  | 53<br>193                 | 31<br>116                 | 31<br>76                  | 19<br>133                 |
| <b>Total New Projects</b><br><b>Total No. of Apartments Represented</b>                              | <b>311</b><br><b>8409</b>  | <b>249</b><br><b>9538</b>  | <b>224</b><br><b>7509</b> | <b>191</b><br><b>4594</b> | <b>159</b><br><b>6359</b> | <b>141</b><br><b>4118</b> | <b>129</b><br><b>5565</b> |
| <b>Conversions</b>   |                            |                            |                           |                           |                           |                           |                           |
| Residential<br>No. of Apartments Represented   | 164<br>1177                | 157<br>903                 | 132<br>664                | 112<br>1592               | 89<br>618                 | 79<br>575                 | 64<br>219                 |
| Commercial and Other<br>No. of Apartments Represented  | 14<br>1584                 | 8<br>649                   | 14<br>894                 | 4<br>234                  | 4<br>198                  | 3<br>535                  | 3<br>6                    |
| Agricultural<br>No. of Apartments Represented  | 54<br>73                   | 45<br>67                   | 47<br>61                  | 40<br>84                  | 20<br>35                  | 27<br>119                 | 14<br>37                  |
| <b>Total Conversion Projects</b><br><b>Total No. of Apartments Represented</b>                       | <b>232</b><br><b>2834</b>  | <b>210</b><br><b>1619</b>  | <b>193</b><br><b>1619</b> | <b>156</b><br><b>1910</b> | <b>113</b><br><b>851</b>  | <b>109</b><br><b>1229</b> | <b>81</b><br><b>262</b>   |
| <b>Combined New &amp; Converted Project Filings</b><br><b>Combined No. of Apartments Represented</b> | <b>543</b><br><b>11243</b> | <b>459</b><br><b>11157</b> | <b>417</b><br><b>9128</b> | <b>347</b><br><b>6504</b> | <b>272</b><br><b>7210</b> | <b>250</b><br><b>5347</b> | <b>210</b><br><b>5827</b> |

\* Total includes one (1) project that was either withdrawn or returned.

Note 1: Numbers and totals may differ from those reported in prior annual reports due in part to the change in the database management software.

Note 2: In mixed use condominium projects, the predominant use is reported. This is done to prevent the multiple counting of a project filing.

- Condominium Specialists Office for the Day;
- Technology and Website;
- Start-up Kit for New AOUOs and New CMAs;
- Cooperative Education, Research, and Administrative Program; and
- Condominium Reference Library

## FY 2013 PROGRAM OF WORK

**Condominium Laws and Education** – Concurrently with the administration of Chapter 514A, HRS, the Commission will continue to fine tune and implement Chapter 514B, HRS, including continuing participation in the legislative process. Acknowledging the State’s economic challenges and the effect of budgetary impacts on the Commission’s program of work, to the extent that condominium education funds are available, the Commission will continue briefings, updates, and presentations to the condominium community and include presentations on the Commission’s website, and in the Condominium Bulletin and the Real Estate Bulletin. It will continue the delivery of statewide multifaceted low cost educational programs with the help of stakeholder organizations and volunteers on all islands. In addition, with the help of stakeholder organizations and volunteers, the Commission will continue to review and amend existing Commission-developed educational materials, new and amended forms, instructions, informational sheets, procedures and evaluative processes and explore delivery of educational seminars video presented on the Commission’s website.

**Advice, Education, and Referral** – Staff, on behalf of the Commission, will continue to respond and provide information related to inquiries from the condominium community, developers, consumers, licensees, government officials, organizations, interested others and the public, via telephone, walk-ins, faxes, written correspondence, emails, Condomin-

ium Bulletin and the Commission’s website. Subject to CETF funding, the Commission will study the feasibility of a grant program for board of director participation in Commission-approved education programs and maintain and update the Commission website as necessary. Whenever practical, the Commission will provide a forum to promote self governance for owners and associations.

### **Condominium Project and Developer’s**

**Public Reports** – The Commission will continue to administer two condominium project registration programs (Chapters 514A and 514B, HRS) and the ongoing administration of issuance of effective dates for developer prepared public reports. With the help of stakeholder organizations, volunteers, other governmental agencies and interested attorneys, staff will continue to refine online unalterable form-fillable developer’s public report forms and the evaluation and development, where appropriate, of new processes, records, forms, information documents, and rules relating to condominium project registrations. If necessary, the Commission will procure additional condominium consultants to assist with the review of documents and information submitted to the Commission in conjunction with condominium project registrations. Staff will continue to conduct information and orientation sessions for all newly procured consultants in addition to conducting yearly informational meetings for all consultants. The Commission will continue to monitor the consultants’ performance of the contracts. Staff will also continue to make the developer’s public reports available for public viewing and copying to disc via the Commission’s website and continue to compile information and Commission decisions and make these available to the consuming public, consultants and other interested persons. The Commission will continue to study and research a comprehensive evaluation system on the project registration and review process to include considering a plan for electronic

administration of the developers' public reports, including the scanning of documents on CDs. The Commission will also continue to monitor any legislation relevant to condominium project registration for impact on policies and procedures upon condominium developers and the public report process.

**Hawaii Condominium Bulletin** – The Commission will continue the research, development, and online publication of a quarterly bulletin. Staff will continue to research the possible publication of a “developers’ reference file,” with consultants contributing articles. The Commission will also take into consideration the addition of an ongoing section in the bulletin dedicated to issues relevant to condominium project registration and developer’s issues, with articles written by condominium consultants. Staff will continue the procurement code management and administration of the contract with a consultant assisting in the layout, design, and printing of the bulletin.

**Condominium Mediation and Arbitration Program** – The Commission will continue to subsidize and monitor the delivery of mediation programs, including evaluative mediation which may be offered as an option by mediation providers depending on funding availability, and the annual renewal of mediation contracts. Staff will continue to work with the Mediation Center of the Pacific (MCP) and other procured providers to present educational seminars about alternative dispute resolution and mediation to board of directors and apartment owners. Staff will continue to collect information and statistics for educational and Annual Report purposes. The Commission will continue to study the feasibility of CETF funding of arbitration for those parties eligible for mediation. The Commission will continue to work with MCP to update the MCP mediation training instruction manual.

**Condominium Association Registration** – Staff will continue to administer the online registration of condominium associations, including reviewing and updating, as necessary, applications for registration, policies, procedures, and appeals. The Commission will respond to subpoenas and requests for records under OIP. The Commission continues listing all association contact information on the Commission’s website with preprinted lists available upon request. The Commission will continue to research and study the feasibility of compiling a biennial profile of registered associations based on the data fields gathered from the registration information.

**Condominium Seminars and Symposiums** – The Commission will continue to produce seminars for the condominium community through procured contracts with various providers and will continue to procure for additional new providers on relevant topics. It will continue to administer CETF subsidies for Commission-approved seminars where funds are available. The Commission is considering producing a seminar on reserves, especially the cash flow funding method, in collaboration with interested parties. Staff proactively seeks additional consultants, especially on the neighbor islands. The Commission will research the possibility of web re-broadcast of all CETF seminars. The Commission will continue the administration of a CRC educational advisory group to provide recommendations and input about the CRC educational programs.

**Ad Hoc Committee on Condominium Education and Research** – The Commission will continue the administration of this group as necessary which reviews and makes recommendations and assists in the development, update and administration of condominium education-related projects. It will continue to develop a roll-over five year strategic CETF education plan and electronic consumers’

brochures for seniors, condominium owners, and real estate brokers.

**Condominium Managing Agents Registration** – The Commission continually administers CMA registration requirements, including review of applications for registration, policies, procedures, appeals, subpoenas, and requests for records under OIP. It is working towards developing a paperless fidelity bond review process.

**Rulemaking, Chapter 107** – The Commission will continue to study, evaluate, re-search, and develop rule amendments for the formal rulemaking process. It will continue to receive recommendations from various groups in the condominium community, community workshop participants, government officials and organizations regarding proposed rules for Chapter 514A, HRS, and Chapter 514B, HRS. This fiscal year the Commission will continue to work towards completion of formal rulemaking for Chapter 514B, HRS, through the presentation of proposed draft rules to the CRC for consideration, recommendations, and approval; and initiation of the formal rulemaking process thereafter to include reviews by the Attorney General, DCCA/PVL Administration, Small Business Regulatory Review Board, Legislative Reference Bureau, Budget and Finance, DBEDT, and the Governor.

**Meetings** – The Commission, with support from staff, will continue to plan, coordinate, and conduct monthly CRC meetings. Staff includes the schedule of meetings and agendas on the Commission's website and will continue to maintain meeting minutes in PDF and searchable format.

**Government and Legislative Participation and Report** – The Commission will continue to research, participate, and report on requests by the Legislature, including resolutions, agreements, and issues of mutual

concern. It will also continue to research, develop and distribute the Annual Report to the Legislature on CETF programs and funds and immediately upon completion, place on the Commission's website.

**Legislative Acts and Resolutions** – The Commission will continue to review, report, and develop summaries on all related Acts and resolutions proposed in the 2013 legislative session and implement requirements of directly related Acts and resolutions. Chapters 514A and 514B, HRS, will continue to be available on the Commission's website.

**Interactive Participation with Organizations** – The Commission, as well as staff, will continue active participation with local organizations and government agencies for the exchange of information and concerns, sharing of education and research efforts, joint projects of mutual concern, training, etc., through attendance, and participation at local meetings, including CAI Hawaii, HCAAO, HICCO, Condominium Council of Maui, and the Hawaii State Bar. Participation in national, international, and regional organizations, such as Pacific Rim, CAI, IREM, ARELLO and Zenkauren (Japan), and will be subject to applicable budgetary constraints given the State's economic challenges.

**Neighbor Island Outreach** – The Commission will continue to hold CRC meetings at neighbor island sites in collaboration with the local boards, HAR, and condominium organizations subject to applicable budgetary constraints and the State's economic challenges.

**Condominium Education Trust Fund (CETF)** – The Commission will continue to administer the funds for educationally defined purposes. The Commission prepares, maintains, and reviews quarterly and annual financial statements, budget and finance records for both educational funds, and administers fund investment. The Commission, projecting



a CETF funding shortfall, will continue to plan and work with the Department to finalize the increase in CETF fees and budget for use in funding the Commission's educational efforts for the implementation of Chapter 514B, HRS, personnel compensation, and additional educational programs subject to revenue projections.

**Consumer Education** – The Commission will continue to work to develop a consumer education program about initial project sales and resales targeting prospective and new purchasers of condominium units. It is considering a pamphlet or brochure on condominium living and governance in consultation with real estate professionals, condominium board members, condominium unit owners, and developers. This program is administrated as part of a five year condominium strategic education plan which rolls over each year.

**Rulemaking, Chapter 53, and Fees** – The Commission will continue to finalize, research and make recommendations on rule amendments for fees through coordination with the Department and the Licensing Administrator. This fiscal year, the Commission plans to hold public hearings on proposed new fees, and will continue to study deferred, existing and new educational programs and condominium services to determine appropriate fees and amendments to Chapter 53, Hawaii Administrative Rules.

**CPR Project Workshop and Meetings** – Staff will continue to conduct annual information sessions and forums for condominium consultants for purposes of orientation and information. Staff also will continue to plan for facilitating forums for representatives of developers, attorneys, condominium consultants, CMAs, and association focus groups regarding the ongoing implementation of Chapters 514A and 514B, HRS.

**Condominium Specialists Office for the**

**Day** – Subject to applicable budgetary constraints and the State's economic challenges, the Commission will continue the set up of Condominium Specialists Office for the Day at RICO neighbor island offices or other sites to provide the condominium community, developers, government officials, consumer purchasers, and other related professionals advice, education, and referral with advanced publicity, mail outs, and appointments upon request, include training of RICO investigators. The Commission will continue to fine tune its Visiting Condominium Specialist pilot program.

**Condominium Speakership Program** – Subject to State government approvals and priorities including any budgetary constraints, the Commission will continue to honor requests to provide a speaker, resource person, or participate in a function related to condominium education, Chapters 514A and 514B, HRS, condominium governance issues as it relates to Chapters 514A and 514B, HRS, and condominium project registration. For example, in FY 2011, the Commission initiated a speakership program wherein condominium specialists were available to condominium associations to answer questions on the subject of the condominium law.

**Technology and Website** – The Commission will continue to operate its website for public interaction and education. It maintains and updates the electronic storage of materials providing the public online access to the developer's public reports, condominium association registration data and other information. Pursuant to Chapter 514B, HRS, the Commission will continue to post and make the new developer's public report form and other related forms form-fillable and downloadable. The forms are evaluated and amended to meet the implementation challenges which surfaced throughout the year. The Commission will continue to consider its long range goal of providing all condo-

minium information available online and studying the feasibility of providing associations a central depository for all governing documents on the website, including minutes of association meetings.

**Case Law Review Program** – The Commission will continue to monitor, collect, and report on state and federal law judgments and decisions, administrative decisions, and policies and procedures; report on governance and project development cases; and evaluate cases for inclusion in the Condominium Bulletin.

**Start-up Kit for New Associations and New CMAs** – Staff will continue to distribute start-up kits to newly registered associations and CMAs, including unofficial copies of Chapters 514A and 514B, HRS, administrative rules, budget and reserves guide, board of directors' and condominium owners' guides, and past Condominium Bulletins.

**Records Management** – Staff will continue to evaluate, plan, reorganize, and implement a centralized, consistent, user friendly, computerized glossary of the existing and future educational materials, records, developers' public reports and files. Staff will also continue to maintain and update continued scanning and electronic storage of records including minutes and developer's public reports.

**Cooperative Education, Research, and Administrative Program** – Subject to applicable budgetary constraints and the State's economic challenges, the Commission will continue to actively participate and sponsor cooperative education, research and administrative programs for those individuals, branches, divisions, department personnel, and the Attorney General's Office which provide direct or indirect services to the Commission and its condominium education trust funds and or condominium project registration responsibilities.

**Division and Department Program** – The Commission will continue the coordination of activities and programs of mutual concern with PVLD, RICO, and DCCA. It will coordinate positions on Chapter 436B, HRS, Chapter 467, HRS, with Chapters 514A and 514B, HRS and monitor interaction and effect of other regulatory laws and rules on Chapters 514A and 514B, HRS.

**Staff and Commissioners Development** – Staff will continue to develop and train staff and Commissioners for better administration of the condominium education and registration programs. Subject to applicable budgetary constraints and the State's economic challenges, staff and Commissioners will continue to participate in training and educational opportunities provided by REEA, ARELLO, CAI, CAI Hawaii, CLEAR, and other organizations.

**Condominium Reference Library** – Staff will continue to maintain and update the Commission's website catalog of all public reference materials and, when available, will continue to provide materials to the State Library System, especially in highly-concentrated CPR areas, mediation provider offices, and at the Real Estate Branch office. Whenever feasible, the Commission will provide information in conjunction with condominium law educational programs. Staff will continue to research and study the cost of updating and maintaining all condominium library reference materials. Staff will also continue to recommend the inclusion of these updates as part of any developed five year strategic educational plan for condominium education.



## Real Estate Education Fund

| <b>Fund Balance<br/>As of June 30, 2012<br/>(Unaudited)</b>                            | <b>FY 2012 Expenditures and Encumbrances<br/>(Unaudited)</b> |
|--|--|
| <b>ASSETS</b>  | <b>I. Operations</b>   |
| Cash   | Personnel \$287,364  |
| In State Treasury \$177,264  | Supplies 6,240   |
| Short term cash investments 500,000  | Postage 2,500  |
| Total Assets 677,264   | Equipment Rentals/Maintenance 4,644                          |
|  | Machinery and Equipment 4,048                                |
|  | Total Operations \$304,797                                   |
| <b>LIABILITIES AND FUND BALANCE</b>  | <b>II. Direct Licensee Education</b>                         |
| Liabilities  | Real Estate Seminars 0                                       |
| Payables 4,638   | Neighbor Islands Outreach 6,013                              |
| Fund Balance   | Annual Report/Quarterly Bulletin 42,550                      |
| Reserve for Encumbrances 23,497  | Programs 51,123  |
| Unreserved 649,128   | Total Direct Licensee Education 99,686                       |
| Balance <u>672,626</u>   |  |
| Total Liabilities and Fund Balance \$677,264   | <b>III. Indirect Licensee Education</b>                      |
|  | Interactive Participation w/Orgs. 16,211                     |
|  | Staff/Commissioners Development 627                          |
|  | Dues & Subscriptions 3,141                                   |
|  | Books 73   |
|  | Total Indirect Licensee Education <u>20,052</u>              |
|  | <b>Total Expenditures and Encumbrances <u>\$424,535</u></b>  |
| <b>Revenues and Expenditures<br/>For the Year Ending June 30, 2012<br/>(Unaudited)</b> |  |
| Revenues   |  |
| Fees \$72,363  |  |
| Interest (includes Recovery Fund) 585  |  |
| Total Revenues <u>72,948</u>   |  |
| Expenditures <u>401,037</u>  |  |
| Excess (deficiency) of revenues over expenditures <u>(328,089)</u>                     |  |
| Fund Balance   |  |
| Beginning of Year <u>1,000,715</u>   |  |
| End of Year <u>\$672,626</u>   |  |

## Real Estate Recovery Fund

### Fund Balance As of June 30, 2012 (Unaudited)

## ASSETS

|                              |                  |
|------------------------------|------------------|
| Cash                         |                  |
| In State Treasury            | \$258,604        |
| Short term cash investments  | 500,000          |
| Investment securities (cost) |                  |
| Total Assets                 | <u>\$758,604</u> |

## LIABILITIES AND FUND BALANCE

|  |                  |
|--|------------------|
| Liabilities  |                  |
| Payables   | \$1,405          |
| Investment income included "In State Treasury" and<br>Paid to Real Estate Education Fund | <u>0</u>         |
| Total Liabilities  | 1,405            |
| Fund Balance   |                  |
| Reserve for encumbrance  | 0                |
| Unreserved   | <u>757,199</u>   |
| Fund Balance   | 757,199          |
| Total Liabilities and Fund Balance   | <u>\$758,604</u> |

### Revenues and Expenditures For the Year Ending June 30, 2012 (Unaudited)

|  |                  |
|--|------------------|
| Revenues   |                  |
| Fees   | \$51,649         |
| Expenditures   |                  |
| Operations   | 41,161           |
| Legal Services                                       | 19,752           |
| Claims   | <u>0</u>         |
| Total Expenditures                                   | <u>60,913</u>    |
| Excess (deficiency) of revenues<br>over expenditures | (9,264)          |
| Fund Balance   |                  |
| Beginning of Year                                    | <u>766,462</u>   |
| End of Year  | <u>\$757,199</u> |

### FY 2012 Recovery Fund Payments

| Case No. | Licensee(s) | Amount |
|----------|-------------|--------|
|----------|-------------|--------|

**There were no payment from the Real Estate  
Recovery Fund in Fiscal Year 2012**

## Condominium Education Trust Fund

| <b>Fund Balance<br/>As of June 30, 2012<br/>(Unaudited)</b> | <b>FY 2012 Expenditures and Encumbrances<br/>(Unaudited)</b> |
|---|--|
| <b>ASSETS</b>   |  |
| Cash  | Personnel \$301,615  |
| In State Treasury \$214,728                                 | Supplies 0   |
| Short term cash investments 200,000                         | Postage 2,500  |
| Total Assets <u>\$414,728</u>                               | Equipment Rentals/Maintenance 3,539                          |
|   | Education and Research 50,278                                |
|   | Equipment for Office 854                                     |
|   | Staff/Commissioner Development 0                             |
| <b>LIABILITIES AND FUND BALANCE</b>                         | Resource Materials 0   |
| Liabilities   | Dues & Subscriptions 295                                     |
| Payables \$1,443  | Miscellaneous 0  |
| Fund Balance  |  |
| Reserve for Encumbrances 11,958                             |  |
| Unreserved 401,326  |  |
| Fund Balance <u>413,285</u>                                 | Total Expenditures and Encumbrances <u>\$359,082</u>         |
| Total Liabilities and Fund Balance <u>\$414,728</u>         |  |

| <b>Revenues and Expenditures<br/>For the Year Ending June 30, 2012<br/>(Unaudited)</b> | <b>CONDOMINIUM EDUCATION FUND<br/>FY 2013 Budget (proposed)</b> |
|--|---|
| <b>Revenues</b>  | <b>REVENUES</b>   |
| Fees - Others \$29,762   | Application and Renewal Fees \$533,800                          |
| Fees - AOOU Registration \$58,936  | Interest <u>\$200</u>   |
| Interest income 92   |   |
| Total Revenues <u>88,790</u>   | <b>Total Revenues \$534,000</b>                                 |
| <b>Expenditures</b> <u>347,123</u>   |   |
| Excess (deficiency) of revenues<br>over expenditures (258,333)                         | <b>EXPENDITURES</b>   |
| Fund Balance   | Personnel \$432,675   |
| Beginning of Year 671,618  | <u>Subtotal \$432,675</u>                                       |
| End of Year <u>\$413,285</u>   |   |
|  | Administrative Expenses* \$22,750                               |
|  | Condominium Program of Work* \$184,761                          |
|  | <u>Subtotal \$207,511</u>                                       |
|  | <b>Total Expenditures and Budget Ceiling \$640,186</b>          |